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# Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, Heavenly Father, open our hearts to Your movement in our midst. As we trust Your providence and cling to Your promises, give us wisdom and spiritual vision to see You at work.

Today, I claim for our lawmakers Your promise through Jeremiah: Call to Me, and I will answer you, and show you great and mighty things which you do not know.

Lord, keep our Senators from being intimidated by the challenges they face. Clothe them with the armor of integrity, shield them with Your truth, and guide them with Your power. Help them to please You by living holy and peaceful lives. Give them a hunger for Your words and a desire to apply Your knowledge in their daily walk.

We pray in Your precious Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, February 6, 2008.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. REID. Mr. President, it is a big day today. Our three Presidentials are going to be here, and we have a 5:45 vote. We are looking forward to that. We don't see them as much as we used to.

Following my remarks today and those of the Republican leader, there will be an hour of morning business, equally divided, with Senators permitted to speak therein for up to 10 minutes each. The majority will control the first half and the Republicans will control the second half.

Following morning business, the Senate will resume consideration of the Foreign Intelligence Surveillance Act, as under the previous order. Rollcall votes may occur throughout the day in relation to FISA amendments. As I mentioned, there will be a 5:45 p.m. cloture vote on the Finance Committee amendment to the economic stimulus. Second-degree amendments to the finance amendment are due by 4 p.m. today.

## VIOLENT STORMS

Mr. REID. Mr. President, being from the desert and seeing, on occasion, storms in the northern part of the State, it is hard for me to understand the power of nature we see so often—and that we see more often than we used to with these tornadoes occurring throughout this country.

Last night and this morning, violent storms raged through five States, including Alabama, Arkansas, Kentucky, Mississippi, and Tennessee. They were violent. It appears there will be more than 50 people declared dead, scores of people have been injured, and there was a tremendous loss of personal property. Our thoughts, of course, this morning go out to the victims. We, in all our States, have had occurrences relating to natural disasters. But I think we should all pause and think about the lives of these people who have been snuffed away by this violent set of storms throughout the country and the loss to their loved ones, their neighbors, and their families.

We have heard reports this morning of how our first responders reacted. The police, firefighters, and National Guard medics worked through the night, around the clock, to save lives. The latest event we had in Nevada was so minor compared to this. We had a levy break and flood waters inundated hundreds of homes. We were very concerned about that. But the one thing we did recognize is how the police, firefighters, and other first responders reacted so quickly. What took place last night is so much more significant than what we had in Nevada. It is difficult to comprehend the severity of what happened last night. The work of the first responders, and others, will continue around the clock for some time. Rebuilding will begin and I am confident that, as a congressional body, we will be called upon to help in some form or fashion.

### THE ECONOMY

Mr. President, the top priority of this Congress right now is to bring relief to Americans who are struggling through a troubled economy. One need only listen to the morning news, as I did, to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

see that the economy is stumbling and staggering. The stock market fell by 3 percent yesterday. The Japanese markets, after that—we got reports today on that—fell by almost 5 percent. The European markets are down.

Today, our work continues to try to focus attention on this troubled economy, to try to help in some way. As I have indicated, at 5:45, we will hold a cloture vote on the plan to proceed to the Senate Finance Committee's economic stimulus plan. I spread on the record of this body last night editorials from around the country supporting the Senate stimulus plan. It is the one that will get money into the pockets of people who need it and will spend it very quickly. This is in no way to denigrate the House plan. It was only a start.

Why do we need a stimulus plan? Look at the stock market, look at the rising gasoline prices, heating for our homes, and the housing crisis, the foreclosure rate, which is more than 600 percent in Reno, NV. It is 275, on average, in Florida. It is more than 300 percent in California, with 37 million people. The Labor Department's recent jobs report showed the economy lost 17,000 jobs in January. That is a few of the problems we should be concerned about.

Whether American families are investing in the market—some are and some aren't—the gathering storm clouds point to the need for Congress to take action.

The Finance Committee's plan builds on the House bill and makes it better. I repeat, this is not HARRY REID speaking, it is from all over the country, talking about the need to do something quickly and focus attention on the Senate stimulus plan.

A couple of my friends on the other side have talked about why didn't we do this. One referred to what we have in the stimulus package as ''Christmas tree ornaments.'' Another referred to them as ''pet projects.'' I have to plead guilty to the pet projects.

Providing rebate checks to 21.5 million seniors is a pet project of mine. I think it is a good program. All 51 Democrats agree it is a pet project we all support. Providing rebate checks to 250,000 wounded American veterans is another of my pet projects. Give the money to the seniors and to the wounded American veterans and they will spend it. Providing tax incentives to small and large businesses is also a pet project. Why? Because it will stimulate the economy and give them the money and they will spend it.

I was at a breakfast at 8 o'clock this morning. We had a number of groups there, but the homebuilders were there. They are out in force. They have covered Washington. They are focusing attention on Republican Senators because this legislation is the most important legislation for the homebuilding industry to come about in the past decade. This is important legislation. The homebuilders have representatives in Washington trying to help them.

One of the pet projects we have is extending unemployment benefits to people who have been out of work for a long time. I very much appreciate the homebuilders being advocates for our Senate stimulus package.

Those who are unemployed don't have anyone here. They don't have lobbyists calling for Republican Senators to support it. This is the package we got from the Senate Finance Committee. This is an important part of the stimulus package—to give rebates to people who are out of work and have been for an extended period of time. They will spend it.

Helping Americans struggling to pay their heating bills through the LIHEAP is a pet project. I have supported this project for years. We support this project. You give these people the money and they will spend it—and they will spend it now.

The growing housing crisis is certainly a pet project of mine, as indicated by the statistics we have in Reno, NV, and other places in Nevada. We should join to build on the House bill. The bill that comes from the House has to go to conference anyway because there is language in the House bill dealing with people who are undocumented who would have benefits.

I hope we can join to put this package out as quickly as possible, take it to conference and work with the President and come up with something better than the House bill.

The stimulus package will put money in the pockets of those who will spend it and help our country recover from this troubled economy. We are in for a long, slow grind, but we can shorten it by doing something to stimulate the economy now. The Senate Finance Committee package does that. It is bipartisan, and it needs to be done as quickly as possible.

## RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

## WINTER STORMS

Mr. MCCONNELL. Mr. President, I will start the day by acknowledging the tragedy that has befallen several States in the South, including my own State of Kentucky.

According to news reports, rare winter storms struck across Kentucky, Arkansas, Tennessee, and Mississippi. News reports indicate at least 44 people have been killed, and 7 of those were in my State—4 in Allen County, which is along the Tennessee border, and 3 in Greenville, which is in Muhlenberg County in the western part of our State.

Thousands more are left with damage or destroyed property or are without power. The authorities are still working to determine the extent of the damage.

I ask my colleagues to join me in praying for the families of the victims and to all who have been touched by these terrible storms. State and local officials are working as hard as they can to survey the destruction and get help to anybody who needs it.

## STIMULUS PACKAGE

Mr. MCCONNELL. Mr. President, it has been 19 days since the President called for a stimulus plan, and economists called for swift action on it.

Republicans and Democrats in the House got the message, and they made some hard choices, showed restraint, and forged a bipartisan compromise literally within days.

Unfortunately, Senate Democrats didn't follow suit. They turned the idea into political gamesmanship, with the head of their campaign committee calling for ''tough votes.''

The American people are tired of political ''gotcha.'' We don't have time for it. The economy needs a boost right now. So I think we need to step back and ask ourselves what this exercise was all about in the first place.

My preference is to modify the House package to include rebate checks for seniors and disabled veterans and certainly eliminate the possibility that any illegal immigrants will get checks.

The White House and Treasury Secretary have indicated support for such a plan, so we can expect it will be signed into law.

Meanwhile, we have no such assurance for the alternative, larger proposal Senate Democrats apparently are still hashing out. We read this morning that ''negotiations are still ongoing'' among Democrats about what to include in the final package.

We started out united behind a proposal to help struggling taxpayers and stimulate the economy. Now some are insisting on a plan that might not even be signed into law.

However, there is still another choice. We can still pass a bill that is targeted and timely and which helps seniors and disabled veterans—and that is the amendment I will be offering later today with Senator STEVENS.

The Reid amendment, on the other hand, might not even get signed.

So should the Reid amendment fail, we should immediately move to include seniors and disabled veterans, exclude those who are not legal citizens, and then quickly send this good, bipartisan, House-passed bill, as amended, back to the House, which I am sure will pass it quickly, and send it to the White House for signature. To do less would break faith with the American people who were told nearly 3 weeks ago they could expect relief quickly.

I urge my colleagues and the whole body to support it so we can deliver timely help to the American people.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority in control of the first half and the Republicans in control of the final half.

The Senator from New Mexico is recognized.

FOREST LANDSCAPE RESTORATION ACT

Mr. BINGAMAN. Mr. President, yesterday I introduced legislation that has been given the number S. 2593, the Forest Landscape Restoration Act of 2008. I developed this legislation with Senators DOMENICI and FEINSTEIN, who are cosponsors of the bill. We also have as cosponsors Senators ALLARD, WYDEN, SALAZAR, CANTWELL, CRAIG, AKAKA, and CRAPO. I also am pleased to point out that Chairman GRIJALVA in the House of Representatives is introducing a companion bill, and I look forward to working with him as his subcommittee in the Natural Resources Committee moves forward with that bill.

This legislation establishes a program to select and fund projects that restore forests at a landscape scale through a process that encourages collaboration, relies on the best available science, facilitates local economic development, and leverages local funds with national and private funding.

As many of my colleagues know, we are facing serious forest health and wildfire challenges throughout our country. A century of over-aggressive fire suppression, logging, and other land uses have significantly deteriorated entire landscapes.

These conditions have played an important role in the extraordinary wildfires and insect-caused mortality that we have seen literally on millions of acres of national forest and other lands. To address these problems, it is critical that we begin trying to restore our forests on a landscape scale.

Landscape-scale restoration is key for controlling wildfire suppression costs. It is an important component of successful economic development. It is important for the health of many of our forest ecosystems.

Despite the importance of landscape-scale restoration, neither the National Fire Plan nor the Healthy Forest Restoration Act nor any of the other efforts we have made to date have been very successful in facilitating restoration and hazardous fuels reduction on landscape scales. A lack of sufficient funding is one of the primary reasons. Restoring landscapes takes a significant amount of funding over a significant period of time.

To address that problem, the Forest Landscape Restoration Act authorizes $40 million per year for 10 years to be paid into a national pool. Eligible landscape restoration projects from around the country would compete for a portion of that money. Mr. President, $40 million is not nearly enough money to fund landscape-scale treatments in all of the forest landscapes that need restoration, but it is a realistic amount for us to pursue at this time, and it is enough to make landscape-scale restoration a reality.

Because of funding and other challenges, landscape-scale restoration remains largely theoretical. As a result, this legislation is designed to be both practical and experimental. It does not redirect existing efforts. Instead, it adds to existing efforts by creating a program that will make planning, funding, and carrying out at least a handful of these landscape-scale restoration projects possible.

Again, I thank Senators DOMENICI and FEINSTEIN and the other cosponsors of this legislation for working with me on this bill. I also thank the many stakeholders from across the spectrum for their input on the legislation, including the Nature Conservancy which has been very supportive of this effort.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

ECONOMIC STIMULUS PACKAGE

Mr. DURBIN. Mr. President, I thank the majority leader, Senator REID, who was here earlier today talking about the economic stimulus package. What I have tried to do is to understand at this moment where the Republicans are, and it is hard to follow because initially there was agreement between the Republican and Democratic leaders in the House—Speaker PELOSI, Congressman BOEHNER, and Secretary Paulson of the Bush administration. They came up with the notion that to get the economy moving forward, we should send a rebate check of about $600 for individuals and $1,200 for families and additional money for children across the country, which is certainly an excellent starting point because the administration was persuaded to include the lower income families across America, and there were limits on family income as to eligibility.

The Senate Finance Committee took up this proposal from the House and suggested a few changes. I think each one of them is a positive change. For instance, they said: Let's include 21 million seniors receiving Social Security checks. If the idea is to put the money in the hands of people who will spend it, certainly our seniors on fixed incomes, many who struggle with utility bills, keeping their homes warm, paying for gasoline, the cost of food and prescription drugs, they can use the money. An additional $500 or $600 will be spent by them. That was included in the Senate finance package. That was not in the original House version. I think that is a positive improvement.

Then they also said: If we are talking about groups of people who should be recognized, those disabled veterans from previous conflicts and certainly from Iraq and Afghanistan should be included as well. There is argument here. Those men and women certainly deserve special consideration for all they have given to America. So that was added to the House version of the bill on the part of the Senate Finance Committee.

Then they went to another category, and this is one the economists say is a very important category: people who are currently unemployed, those folks looking for jobs, many of whom are struggling to keep their families together while they find a job after they have been laid off from previous employment. If they receive additional money, economists say they are most likely to spend it in a hurry. So they encouraged us to include them in the relief we are providing with this tax rebate.

I have been listening carefully to see if our Republican colleagues believe these people deserve help as well. I am beginning to believe this is the real problem the Republicans have. They are concerned about giving additional money to people who are currently unemployed. Yesterday, one Senator from Texas on the Republican side said that just encourages them not to find work. I took a look at the amount of money that is paid to people on unemployment. It is hard to believe that is the kind of money that will lead to a life of leisure, where you decide: Heck, I don't need a job; I have unemployment benefits.

It turns out that unemployment benefits are not that generous—$500 a week would be a big number, and for many it is a lot less. If we suggest people will stop working with that kind of income, I think it overlooks the obvious. Many people in lower income categories struggle from paycheck to paycheck. Losing a job creates a family emergency. What we are talking about is whether we should provide additional help to those unemployed. This has been done before. It is not a new concept. In fact, historically, if you want to fire up the economy and put spending power in the hands of people across America, helping the unemployed is one of the first places you turn.

The way the Finance Committee does it is to extend unemployment benefits, currently at 13 weeks, another 13 weeks, which will be another 3 months or so, except for States with the highest unemployment, and then they would be extended another 26 weeks

total. That is a way of providing special help in areas of high unemployment.

I took a look at the estimated number of people who will exhaust their jobless benefits State by State. In my State, it is 57,000 people. Let's take a look at a State such as Senator MCCONNELL's State of Kentucky: 11,458 people will see their unemployment benefits end unless we enact this Senate Finance Committee version of the bill; Arizona, Senator KYL's home State, 18,846. Let's go down to Texas where Senator CORNYN says he thinks this encourages people not to look for work: 49,000 people are about to lose their unemployment insurance benefits.

The point is, unemployment is at a relatively low level in this country, according to Senator KYL. These are his words:

> Unemployment is at a relatively low level in this country, and it would be a huge mistake to exacerbate the unemployment situation by extending unemployment benefits.

I am quoting from a statement that Senator KYL made, not Senator CORNYN. I want to make that correction for the record. Senator KYL was the one who questioned the wisdom of extending unemployment benefits.

So in Senator KYL's home State, it appears that 18,846 people are about to see their unemployment benefits come to an end, and he, I assume from his argument, believes that is a good thing because now this will prod them into looking for work, and he is not supporting extension of these unemployment benefits for 18,846 people in his home State.

That has become one of the major elements of debate in terms of whether the Republicans will support the Senate Finance Committee version. Let me add, it was a bipartisan vote that brought the bill out of committee—Senator GRASSLEY of Iowa, joining with, I believe, Senator SMITH of Oregon and Senator SNOWE of Maine, if I am not mistaken. All three voted for the Senate Finance Committee version of the bill that was brought to the floor.

Let's take a look at some other States where unemployment benefits might be important. In the State of Mississippi, 7,819 are about to lose their unemployment benefits unless the Senate finance version passes as an economic stimulus. As I mentioned, in my home State of Illinois, 57,000 are looking for assistance in that regard.

As I go through this list—North Carolina is another good example. North Carolina, 48,000 people in the State, obviously suffering from some high unemployment, are about to lose their unemployment benefits. The State of Ohio, 35,320 otherwise will lose their unemployment benefits.

Mr. President, I ask unanimous consent to have printed in the RECORD this table so all the States, based on the current U.S. Department of Labor data, will be reported officially in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

| State | Estimated number of people that will exhaust State jobless benefits (January to June 2008) |
|---|---|
| Alabama | 12,510 |
| Alaska | 6,913 |
| Arizona | 18,846 |
| Arkansas | 16,505 |
| California | 218,496 |
| Colorado | 12,996 |
| Connecticut | 17,250 |
| Delaware | 3,776 |
| D.C. | 4,769 |
| Florida | 86,092 |
| Georgia | 39,826 |
| Hawaii | 2,654 |
| Idaho | 5,151 |
| Illinois | 57,093 |
| Indiana | 33,598 |
| Iowa | 8,736 |
| Kansas | 7,754 |
| Kentucky | 11,458 |
| Louisiana | 11,140 |
| Maine | 4,019 |
| Maryland | 15,848 |
| Massachusetts | 34,275 |
| Michigan | 72,136 |
| Minnesota | 19,237 |
| Mississippi | 7,819 |
| Missouri | 17,727 |
| Montana | 2,996 |
| Nebraska | 6,009 |
| Nevada | 15,645 |
| New Hampshire | 1,848 |
| New Jersey | 66,415 |
| New Mexico | 6,142 |
| New York | 84,866 |
| North Carolina | 48,245 |
| North Dakota | 1,562 |
| Ohio | 35,320 |
| Oklahoma | 7,515 |
| Oregon | 20,695 |
| Pennsylvania | 58,976 |
| Rhode Island | 7,038 |
| South Carolina | 21,960 |
| South Dakota | 304 |
| Tennessee | 22,037 |
| Texas | 49,104 |
| Utah | 4,029 |
| Vermont | 1,763 |
| Virginia | 17,076 |
| Washington | 18,253 |
| West Virginia | 4,179 |
| Wisconsin | 32,401 |
| Wyoming | 1,147 |
| Total | 1,282,149 |

Source: U.S. Department of Labor data.

Mr. DURBIN. Mr. President, as this economy continues to deteriorate and we see these wild gyrations in the stock market, there are a lot of people concerned. Yesterday, the stock market went down over 300 points. I know it has its good days and bad days, but it has had more bad days than good days for a long time.

A lot of people in days gone by paid little or no attention to the stock market. My mom and dad did not own a share of stock during their married life. They were too busy raising three kids. They could not afford anything like that. If they could put a few bucks in the savings account to save up for the next used car, that is all they looked forward to.

A lot of people view it differently because that stock market reflects the value of 401(k) plans, IRAs, retirement plans, and savings that people count on in years to come. When the stock market is heading south, people are looking at it in worried terms.

What we are trying to do is invigorate this economy and get it moving again. For the longest time, the Republicans have argued that the best way to invigorate the economy in good times and bad is to give tax cuts to the wealthiest people in America. They have this notion that if wealthy people have more money, they somehow will fire up the economy.

I come from a different economic school. It started with Principles of Economics that I took at Georgetown University not too far from here when Father Zyrinyi came into our class and explained the marginal propensity to save. If you are a wealthy person, you are more likely to save the next dollar handed to you than a poor person, who is more likely to spend it. So if you want to get the economy going and fired up, you would give as many dollars as you can to those in lower income categories.

Historically, the Republican approach has been just the opposite: Give the tax cuts, give more spending power to people who are wealthier—folks who have not asked for it and folks who, in many cases, do not need it. In my opinion, a tax code, if it is to be fair, is going to be progressive and say to those struggling at the lower ends—the working families and middle-income families—let's be generous to them because they are the ones living paycheck to paycheck.

Well, now the chickens have come home to roost with this economy. As the economy is heading downward, the Bush administration has discovered poor people. They have discovered working families. It is no longer just a matter of tax cuts for people making over $300,000 or $400,000 a year.

So if we are going to be sensible and really want to enliven this economy, the unemployment benefits are the obvious place to turn. Extending unemployment benefits is not only humane and moral for families out of work, but it works to try to breathe some life into this economy and start more consumer demand and, with that consumer demand, the expansion of business and the expansion of employment and profits and ultimately an improvement in the stock market. That is just fundamental Keynesian economics that we have studied over the years.

This resistance on the Republican side to helping unemployed people is troublesome. It is the same mindset that was in vogue on the Republican side for years when they opposed increasing the basic minimum wage in this country. That used to be bipartisan. It wasn't politically dogmatic to be against increasing the minimum wage. Even Republican Presidents did. But then came this new mindset which said that even if people are working for a small amount of money, they can just get another job if they need to get by. That is hardly consistent with family values, but it prevailed. Over a long period of time—10 years, in fact—there was no increase in the Federal minimum wage, until Democrats took control of Congress last year. We point to that with pride because it is something House and Senate Democrats promised would be high on the priority list, and we did it. Again, we were focusing on people left behind in an economy that

is not as powerful and as healthy as we would like it to be. Now unemployment benefits fit the same category.

When I think of plants across Illinois that have closed, putting people out of work—not to mention smaller businesses—it is through no fault of their own that people who once worked at a good manufacturing plant in Illinois or any other State don't have a job today. They have lost their benefits, lost their health insurance in many instances, and don't know which way to turn. Some have limited education and need time to at least get back to school or back for some training so that they can make some money again. Why wouldn't we want to help these people?

Beyond the economics of it, doesn't it seem only fair, if we are going to try to help people and help the economy, that we would start with the unemployed? The list which I have submitted, which will be printed in the CONGRESSIONAL RECORD, is an indication of how many, nationwide, it would help. The number is roughly 1.3 million who would be helped by the extension of unemployment insurance benefits.

When Senator KYL argues it would be a huge mistake to help the unemployed in America, he is arguing against the bipartisan approach to fighting recession which we have had for the longest period of time. I hope his opinion on this bill does not prevail. We need to do our best to try to help the families who are trying to get by.

In my home State of Illinois, since President Bush took office 7 years ago, relative to inflation, the median household income has decreased by 10 percent. So instead of an improvement in income, families in my State have seen their income go down during President Bush's administration.

The number of residents of my State living in poverty since President Bush came to office has grown by 10 percent in that same period of time. And that was a period of time when the Republicans and the President were resisting the idea of increasing the minimum wage, incidentally.

Health care premiums in Illinois have risen 29 percent since President Bush took office, and 152,000 more people in my State don't have health insurance since President Bush came into office.

Those families lucky enough to get their kids in college are facing sticker shock. The cost of college in Illinois has risen 51 percent since President Bush was sworn in.

A gallon of gas, of course, is up 77 percent in cost, which is an added expense, particularly to low-income families.

To make ends meet, families across America, and certainly in Illinois, have no place to turn but debt. Debt for these families has increased at a rate four times faster than it did in the 1990s. And it is not just families sinking in debt. The President's new budget makes it clear that America is sinking in debt. Senator CONRAD, chairman of the Budget Committee, made a presentation to us yesterday indicating that President Bush inherited a surplus when he came into office and a national debt in the area of $5.7 trillion, and now it could virtually double by the time he leaves office. So this is the reality that faces us.

Mr. President, how much time remains in morning business?

The ACTING PRESIDENT pro tempore. On the majority side, 10 minutes.

Mr. DURBIN. Ten minutes. I see no other Members seeking recognition, so I will stay on this point in recognition of the economic situation we are facing.

The national debt of America has doubled in the last 7 years under President Bush. We have accumulated more debt under President Bush than under all of the previous Presidents of the United States combined. Now, that is the kind of statement that could easily be challenged but I don't think will be because we have the facts to back us up. We have incurred this debt because we have had a war the President has not paid for, nor asked Congress to pay for, and we have had a tax cut policy which is unique in the history of our country. No President of our country has ever asked for a tax cut in the midst of a war.

Here is a figure that ought to concern us as well. Since March 2001, foreign investors have financed nearly 80 percent of our Federal budget deficit. So in order to get by, if you are spending more than you are raising in taxes, we have to borrow it, and we borrow it from foreign governments, which increasingly become our bankers and mortgagers. It is not a healthy relationship when countries such as China, Japan, Korea, and the OPEC nations become the largest creditors of the United States. They have a lot more clout than we might like to see.

It was just a few months ago that there was speculation by one economist in China that they may decide to move away from a dollar-denominated international transaction to use the Euro, which is a stronger currency than the American dollar. Just that rumor, from a low-level economist in China, sent chills through the stock market, and we saw stock prices go down. It is an indication of how dependent we are becoming as a nation as we go further in debt to fund a war which now costs $4 billion a week and also to fund tax cuts in the midst of that war primarily for the wealthiest people.

The President has said many times that he believes in the so-called ownership society. But the ownership society hasn't given most American families greater control over their financial destiny. The owners of the ownership society, by and large, have zip codes overseas. They are foreign investors who own the debt of America.

There are a lot of suggestions of how to get out of this. Some have suggested corporate tax cuts and others, but I think direct help to working families is the most effective way to do it. The rebates we would send to those families is money that could be well spent. I think this extension of unemployment insurance has been proven to be very effective. Mark Zandi, who is with Moody's Economy.com, estimates this would be the second most effective stimulus measure of all the ideas under consideration, generating $1.64 in increased economic activity for every dollar of rebate. This money can be distributed very quickly, since the weekly benefits are capped at $350 for a single individual in Illinois, and it wouldn't cost that much to extend it.

The Senate finance package is a great bill. We could have done better. I wish we could have included, for example, an improvement in food stamps. Over the holidays, last Christmas season, I went to food banks around Illinois. These are some great people. They do not work to make a lot of money, but they work to do a lot of good in their communities. They gather surplus food and distribute it to families who need it, and they are finding that more and more working families are showing up at food banks, and more and more families, even if they are working, can qualify for food stamps. So food stamps, which, unfortunately, don't provide enough money to really cover the cost of meals, could be improved, and that would help our economy. It is not included in the Senate finance package, but it should be.

Finally, I think we need to understand that one of the other ways we can help bring this economy forward is to invest in the infrastructure of America. I just flew in this morning from Chicago—one of our great American cities. But even that city, with its mass-transit system, needs a massive capital investment, not only to repair what is there but to extend it for service to other areas. It would be good for our economy, certainly good for the environment, and it will create good jobs. These are jobs that can't be outsourced. When we are doing infrastructure projects in Maryland or in Tennessee, we are doing projects that have real value, not only for the communities but for the men and women who are at work and whose paychecks are invested back into the communities.

So I am hopeful that at some point beyond this current discussion about an emergency stimulus package, we can extend our stimulus approach to even more investment—investment in highways and mass transit; in bridges, in making certain they are safe and we don't witness the kind of tragedy we had not that long ago in Minneapolis; investments in water resource development—for instance, the locks and dams on the Mississippi and Illinois Rivers, desperately in need of rebuilding. All those are good opportunities to put people to work, to reduce the unemployment rate, and to put money back into the economy. There is hardly a

State in our Nation that can't come up with critical infrastructure projects we could invest in to make America stronger. It is one of the few things Government does which we can show has a direct relationship to economic growth.

Certainly we understand that this current economic crisis we face had its genesis in the subprime mortgage market, and we shouldn't overlook the fact that 2.2 million Americans stand to lose their homes to foreclosure. I think the administration's proposal so far has been anemic. This notion that we would ask mortgage companies and financial institutions to voluntarily restructure mortgages will take us, perhaps, a short walk down the road but not where we should be. We need to find better ways to give these families, if they can, the ability to stay in their homes and make their mortgage payments.

I have a bill that changes the Bankruptcy Code, that allows a bankruptcy court to take an honest look at a person's income potential and restructure a mortgage so that they can stay in their home and won't face foreclosure. Foreclosure is a disaster not only for the family losing the home but for those who loaned the money for that home and, ultimately, for the neighborhood surrounding it.

So Mr. President, there is certainly much we can do. I am sorry we didn't get a lot more done yesterday. We tried, but the Republicans resisted again. They wanted another day off, and we had it. Instead of getting serious about amendments to the Foreign Intelligence Surveillance Act, instead of having the debate leading up to amendments and the vote on the economic stimulus package, the clock ran out.

Well, it is about time for the Senate to roll up its sleeves and get to work so America can get to work. I hope that today the votes that are scheduled will be the beginning of an honest debate and that at the end of the day we will pass an economic stimulus package, conference with the House, and send it to the President for his signature before we break for our Presidents Day recess period which begins next week.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

## TENNESSEE TORNADOES

Mr. CORKER. Mr. President, I had originally scheduled time to speak a little about the stimulus package and the many frailties I see with this package. However, due to the tragedy last night in Tennessee, I wish to talk on a different subject matter.

The senior Senator from Tennessee joins me on the floor this morning, and, Mr. President, I ask unanimous consent to yield half of my time to the great LAMAR ALEXANDER, the senior Senator from Tennessee, if that would be acceptable.

The ACTING PRESIDENT pro tempore. The senior Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I thank my colleague from Chattanooga for his courtesy. I, too, would like to talk about the economic stimulus package and how we Republicans have been ready to go to work on it for 2 weeks, and will later today. But Senator CORKER and I have something that is closer to our heart today, and that is the devastation that came across our State last night from a string of tornadoes that was as rough and as pervasive as anything I have seen in my lifetime.

Most Americans saw reports of it while they were watching coverage of the elections, but the trouble began in Memphis in the middle of the day, with schools being closed because of tornadoes. It moved on to Jackson, where 3,300 students at Union University barely escaped, although the school was heavily damaged.

Often, tornadoes and severe weather of this type head in one direction and then the other, but this one just kept going. It kept on going into middle Tennessee, to Sumner County and Macon County, where several lives were lost, and moved into east Tennessee and the mountain area just this morning. So there is a lot of trouble in our State as a result of that, and Senator CORKER and I want the people of our State to know we have been monitoring that during the night, and we and our staffs are working together today.

We have talked to the Governor and State officials, local officials. I talked to the athletic director of Union University on his cell phone a few minutes ago. I was trying to reach David Dockery, the president of Union University.

So for the next several days, we will be doing all we can do from the Federal level to assist the Governor and the local officials in dealing with the devastation that was caused last night by the severe storms. Forty-five people were killed, more than another 100 injured, a lot of damage to buildings in areas across our State.

I thank Senator CORKER for taking this time to allow us to express to our constituents our feelings for them. We do want them to know they have our full attention today. The Governor is at the front of the line. That is the way we do things in Tennessee. We work easily with him and his staff and the local official. We will stay in touch with them, and those who need to be in touch with our Senate offices can do that.

We will move promptly to deal with applications for disaster relief. Sometimes they say they need to take enough time to be accurately filled out rather than have a race to the mailbox to get those in. But we will be working with local officials with those to do all we can.

I thank the Senator from Tennessee, Mr. CORKER, for his courtesy in allowing me to express my remarks, and I look forward to working with him to help deal with the pain that has been caused to many Tennesseans.

I yield for Senator CORKER.

Mr. CORKER. Mr. President, thank you for letting me spend a few minutes on this topic that is such a huge issue in the State of Tennessee. I certainly thank our senior Senator for his leadership. Our senior Senator was also the Governor of Tennessee. I know he knows full well what many people across our State today are facing.

Again, I thank him for his leadership on so many issues. I know both of us today have spent time talking with county mayors across the State of Tennessee, talking with our Governor, talking with officials at Union University and other places. I know that for all of us our hearts and prayers go out not only to the people of Tennessee but also the Mississippi, Arkansas, and Kentucky people who also are dealing with some very tragic circumstances.

I know people in Tennessee are looking to their county mayors and our Governor for leadership, their officials with the National Guard, and FEMA. My understanding is they are providing outstanding leadership and that people have worked throughout the night to make sure that relief has been given, that people have been taken into homes and other places. Today, as they begin to dig out, if you will, and really see the extent of the damage, that will continue.

I am very proud to serve with LAMAR ALEXANDER and to be with him today. I know both of us want the people of Tennessee to know we are very aware of the tragedy they are dealing with. We are with them and their elected officials at the local and State level. We want to work with them as time goes on to make sure that much needed Federal relief, which will be on the way down the road, is forthcoming.

I wish to thank all of those volunteers. I have heard stories of heroic things throughout our State where ordinary citizens have done things to ease the pain and to create safety for many of our citizens in harm's way.

Again, our thoughts and prayers are with all of our citizens, especially those who have been so tragically affected by the events of the last 24 hours.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. DEMINT. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Carolina is recognized.

## ECONOMIC STIMULUS

Mr. DEMINT. Mr. President, I rise to talk about the economic stimulus

package we are discussing in the Senate. I certainly appreciate the concern the President and all of us have in the House and Senate about our economy and wanting to do everything we can to make sure we avoid an economic slowdown or recession that creates so much hardship through the loss of jobs and, in many cases, a loss of homes. It is something we definitely need to address. It is equally important, as we look at our economic situation, to make sure we allow economic growth and prosperity to work for more people. It is not just about our economic situation as a whole growing but making sure everyone can share in that prosperity.

It is important, as we look at the best way to stimulate the economy and keep it going, to remember that good jobs and a good economy depend on successful companies making good profits. In order for that to happen, we have to create a good business environment. Our goal as a Congress should be to make sure America is the best place in the world to do business. Unless we do that, we will continue to lose ground to countries all over the world. It is going to be increasingly difficult to sustain long-term economic growth. The world is becoming increasingly competitive. We hear it every day. We hear from Asia and India which are actually courting businesses with incentives to encourage companies to locate in their countries, creating a good business environment with less regulation and less taxes so that people will bring their manufacturing plants, their people, and their capital to their countries. It is working. Even stodgy old Europe that we imagine to be a high-tax and highly regulated network of countries is changing to be more competitive in the world economy. They have lowered their corporate tax rate to an average of about 25 percent. Some of their countries such as Ireland have gone down close to 10 percent and have seen remarkable economic growth as they have lowered their tax rate.

Why is this country not responding in the same way? It hasn't been too long since I have been in the private sector working with businesses. I continue to hear the same sentiment. If we are going to do business in America today, before we get to the equipment and the people actually making the products or providing services, a medium-sized American company today is likely to have a large tax department. It could spend millions on dealing with our Tax Code. We have the most complex tax system in the world and probably the highest corporate tax rate in the world. Some will say it is second. Some say it is first. But we are definitely near the top at around 35 percent. So they start with a large tax department.

Then most of our companies also have large legal departments because we are the most litigious society in the world. The most liability for any country is to do business in America. It is not unusual to talk to successful, well-known American companies that are dealing with hundreds, if not thousands, of lawsuits at the same time. So they keep a full-time fleet of lawyers and law firms on retainer dealing with the lawsuits and the legal situations.

These same companies also have large human resource and compliance departments to deal with all of our regulations—some of them good, many unnecessary. A lot of regulations related to capital and reporting, such as Sarbanes-Oxley, are costing companies millions of dollars unnecessarily because Congress is unwilling to fix those things we know are wrong. So there is a large tax department, a large legal department, a large human resource compliance and regulatory department, before we get to manufacturing and actually making things. We are making it very difficult for our companies to compete.

Add to that the cost of energy which is one of the highest in the world. That goes back to bad policy as well. For years we have known we have large oil and natural gas reserves. We have known we could develop more nuclear generation of electricity. Yet we have not allowed nuclear plants to be developed. We have large reserves of oil in Alaska, which we have consistently voted down in the Congress, and natural gas we don't go after. Therefore, we are not only spending hundreds more for every family for gasoline for cars or oil to heat homes or more for electricity, we are sending hundreds of billions of dollars a year out of this country that could support our economy yet is supporting the Middle East and other economies around the world. Yet we will not change the policy. We will not develop our own energy resources. Instead, we are making it harder to produce automobiles in this country, putting the burden on them consistently.

Now, instead of trying to fix some of the systemic policy problems, we are talking about an economic stimulus plan which I have yet to hear, at least on the Republican side in our private meetings, one Republican defend as good policy. Maybe some will come out here and do so. But everyone on both sides is talking about good politics. We are doing nothing for long-term growth. We are doing nothing to create a simpler, more predictable Tax Code or reducing our regulation or litigation. What we are going to do in time for the election is to get a check in the hands of as many people as we can, and we are borrowing it from the future. The debt is growing. We are going to borrow the money to send checks home to Americans.

In 10 years on the present course, bonds for the American Government will be rated as junk bonds in the world because we continue to look at the next election rather than the future of the country.

It is obvious what we could do to develop a long-term, sustained economic growth pattern. If we made the current tax rates permanent, the ones we know have stimulated our economy, that would allow companies to plan past 3 years to build new plants, to buy new capital equipment, to hire new people. Right now American companies trying to do business in this country do not know what their tax rates are going to be after 2010. In fact, if we do nothing in Congress, they know they will experience the highest tax increase in history. Yet we are not even willing to talk about it. All of us know we need to lower our corporate tax rate to at least be comparable to Europe at 25 percent. Yet we are not doing it. So more of our capital, more of our jobs, more businesses will continue to move offshore. Sending people a few hundred dollars to pay down their credit cards is not going to help grow our economy.

There are other things we know we can do. We know we can bring capital from overseas back home for investment and growth if we lower the corporate tax rate as we did a few years ago, what we call repatriating those dollars. Even temporarily lowering that rate would bring capital home and encourage growth.

The one part of the stimulus package that does make sense is to allow companies to expense or to speed up depreciation of capital they buy so it will encourage them to grow and make decisions now because the people who make that equipment have jobs, and those who operate that equipment have jobs. So it would provide some stimulus. But it is most important that we have a predictable, permanent system where people can do business and be competitive around the world. It is unfortunate in all this debate that we are not even willing to talk about it.

I appreciate the time to express my concerns. I am thankful everyone is concerned about the economy and those who have lost their jobs and may lose them in the future. But what we are doing as a Congress is talking about doing something that we are not really doing: we are not stimulating the economy. This is not an economic stimulus package. It is a political stimulus package that is designed to help folks in November.

I know every American needs a check and probably none will turn it down. But, unfortunately, we are making false promises that will not carry into long-term economic growth.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that my remarks be considered as in morning business but fall in line with regard to the bill before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FOREIGN INTELLIGENCE SURVEILLANCE ACT

AMENDMENT NO. 3913

Mr. HATCH. Mr. President, I wanted to briefly mention my opposition to amendment No. 3913 offered by the Senator from Wisconsin. This amendment relates to reverse targeting, which is a theory that the Government could target a foreign person abroad when the real intention is to target a U.S. person, thus circumventing the need to get a warrant for the U.S. person. Quite simply, reverse targeting is already considered illegal under FISA. Going even further, the Intelligence Committee bill has a very explicit prohibition against reverse targeting. The amendment offered by the Senator from Wisconsin adds subjective language which completely alters the meaning of the original bipartisan provision.

I asked Attorney General Mukasey this during a hearing on Wednesday, and here is our exchange.

HATCH: Now the topic of reverse targeting has been mentioned often during the FISA reform debate. From an intelligence perspective, reverse targeting makes no sense. From an efficiency standpoint, if the government was interested in targeting an American, it would apply for a warrant to listen to all of that person's conversations, wouldn't it? Not just his conversations with terrorists overseas?

MUKASEY: Correct.

HATCH: Now, I asked General Wainstein about this during the Judiciary Committee hearing last October, and he reiterated the government's view that FISA itself makes reverse targeting illegal. Does the DOJ still consider reverse targeting illegal under FISA?

MUKASEY: Absolutely.

HATCH: Are you aware of any instances of intelligence analysts utilizing reverse targeting?

MUKASEY: I am not aware of any such instances.

We are enacting national security legislation, and it is our responsibility to ensure that this bill does not lead to unintended consequences which provide protections to terrorists. This amendment is absolutely unnecessary, and I urge my colleagues to oppose it.

AMENDMENT NO. 3920

Mr. President, I wish to say a few remarks with regard to my dear friend, Senator WHITEHOUSE's amendment to authorize the FISC, the Foreign Intelligence Surveillance Court, to assess compliance with minimization techniques. I rise to express my opposition to the Whitehouse amendment No. 3920.

My opposition to the Whitehouse amendment is related to the totality of this bill. This is an amendment that greatly expands the Foreign Intelligence Surveillance Court's jurisdiction. Keeping in mind that the bill before us already expands FISC jurisdiction of foreign collection to an unprecedented high historical level, this amendment tips the balance and could lead to real-life instances of intelligence analysts' operational decisions being second guessed by the court.

The original approach and goals of this legislation were simple and twofold. Goal No. 1: Wire communications taking place in 2008 should receive the same treatment as radio communications taking place in 1978; and goal No. 2: Our intelligence community's sources and methods should not be subject to exposure by litigation brought about by hearsay and innuendo.

I am pleased the legislation before us provides more protections to American citizens than any intelligence bill in my recent memory, and certainly more than the original FISA law.

Over the last several months, a great deal of attention has been given to the FISC, the Foreign Intelligence Surveillance Court. The FISC was created by the original FISA law, and its jurisdiction was extremely limited by that law. Here is what the FISC was created to do.

Foreign Intelligence Surveillance Court: ''A court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance.''

This jurisdiction is purposefully limited, as the task of reviewing applications to intercept electronic communications is among the most important tasks our Government can do to protect our country and its citizens. Terrorists have to communicate to plan and execute attacks, and our interception of these communications is paramount to stopping the next attack.

The jurisdiction of the FISC is greatly expanded by this legislation. Combined with other provisions in this bill, the new oversight created is prevalent and comprehensive. Since the breadth of this new oversight is critical when determining the necessity of the amendment we are debating, let's look at the oversight created by this legislation.

Let me read these five charts.

No. 1, for the first time the FISC will review and approve minimization procedures used by the intelligence community.

No. 2, for the first time the FISC will review and approve targeting procedures used by the intelligence community. The FISC will determine whether the procedures are reasonably designed to ensure targeting is limited to persons outside the United States.

No. 3, for the first time, a court order will be required to target U.S. persons regardless of where they are in the world—for the first time.

No. 4, for the first time the Attorney General and the Director of National Intelligence will be required to assess the intelligence community's compliance with court-approved targeting and minimization procedures. These assessments must be provided to the FISC and congressional Intelligence Committees.

No. 5, new congressional oversight—for the first time Congress is creating statutorily required inspector general—that is the Department of Justice and intelligence elements—semiannual assessments of compliance with court-approved targeting and minimization procedures. These assessments must be provided to congressional Intelligence Committees.

Now, given the staggering amount of new oversight, we should be very careful when creating mechanisms which could negatively impact our intelligence analysts, particularly when these mechanisms provide no benefit, in this case, to the privacy of American citizens.

The intelligence community has a great deal of experience in the techniques used to minimize incidental communications, and very detailed procedures for handling these communications are contained in the United States Signals Intelligence Directive 18, which has been in effect for over 28 years.

Remember, the Government is gathering information relating to foreign intelligence in order to protect national security, not necessarily for criminal prosecution. That is why different procedures are necessary. Otherwise, all national security information gathering would be changed to fit within the procedures of title III criminal wiretaps, which is impossible.

Minimization techniques deal not just with retention and dissemination, but with acquisition. Analysts make decisions up front whether to acquire, keep, or share U.S. person information based on whether it has foreign intelligence value.

This means if a judge is reviewing compliance with minimization procedures, this review is much more than a factual check. The judge is not limited to simply making sure that technical and administrative guidelines are followed. Rather, this amendment could allow a judge to question specific decisions by intelligence analysts on why they chose to acquire, keep, or share certain communications.

Now this begs the question: Are judges better trained in intelligence collection than the intelligence analysts whose job it is to repeatedly perform this task? Not only do I think the answer is no, but we should remember what the FISC said in their recently publicly released opinion, which is only the third public opinion released in the history of the Foreign Intelligence Surveillance Court.

Here is what the FISC said:

> Although the FISC handles a great deal of classified material, FISC judges do not make classification decisions and are not intended to become national security experts. Furthermore, even if a typical FISC judge had more expertise in national security matters than a typical district court judge, that expertise would still not equal that of the Executive Branch, which is constitutionally entrusted with protecting the national security.

Enactment of this amendment could result in judges making foreign intelligence determinations in place of trained intelligence analysts. Based on this unjustified scrutiny, our intelligence analysts could become overly cautious when determining whether to

deem information as having intelligence value in order to avoid unwarranted judicial scrutiny. This could result in less foreign intelligence information being accumulated, and thus could mean we may miss a vital piece of information. Do we want to take this chance? That is what this amendment would do. Should we risk this type of unintended result?

In October of 2007, I asked Assistant Attorney General Wainstein if putting the FISC judges in the position of assessing compliance would effectively put the judge in the role of an analyst. Here is what he said in response:

> And that is the problem, that it would get the FISC in the position of being operational to the extent that it's not when it assesses compliance for, let's say, the minimization procedures in the typical or traditional FISA context where you're talking about one order, one person. Here, some of our orders might well be programmatic, where you're talking about whole categories of surveillances, and that would be a tall order for the FISA Court to assess compliance.

The Whitehouse amendment also contains language which lets the FISC fashion remedies it determines are necessary to enforce compliance. This is very broad language and gives the court the ability to come up with whatever methods it chooses to enforce compliance. Does this mean that the FISC could shut down collection of information from foreign targets overseas while the Government addresses technical issues which have little to do with the privacy of American citizens? We do not know, since this amendment does not answer this question. Remember, we are talking about targeting foreign terrorists to prevent terrorist attacks. This is not the same thing as wiretapping a cocaine dealer in Los Angeles for criminal prosecution. If we approve an amendment which creates numerous unanswered questions, we are putting Americans at risk in unprecedented ways.

Given that the Government has adequately utilized minimization procedures for many years, what is the pressing need for FISC expansion into this area? There is no need to continue unlimited expansion of the FISC into unsuitable areas.

If this amendment does not pass, it does not mean that American citizens are not protected. Incidental communications of Americans will continue to be minimized, and the minimization procedures will have been approved by the FISC. But if the Whitehouse amendment passes, we will be taking a great risk that the unnecessary judicial oversight will cause very harmful unintended consequences that I have already mentioned. We are too far along to introduce guesswork into the carefully crafted compromise bill before us. I will oppose this amendment, and I urge my colleagues to do the same.

AMENDMENT NO. 3930

Now, Mr. President, there is one other amendment I wish to refer to. In October of last year, the Intelligence Committee passed a bipartisan compromise bill which would modernize our foreign intelligence surveillance activities. Unfortunately, this bipartisan bill contained a 6-year sunset provision which would automatically curtail our ability to protect our homeland unless Congress acted.

Let me be clear, I am opposed to any sunset in this legislation. While I believe the inclusion of this sunset provision was not appropriate, it was a result of the bipartisan negotiations in the Intelligence Committee. Now this serves as yet another example that not all of us who support this bill are happy with every provision, and every Senator will need to make concessions to get this bill passed and signed into law.

Given my opposition to any sunset, I will oppose the Cardin amendment No. 3930, which would change the sunset from 6 to 4 years. Proponents of this amendment have propounded several arguments, none of which justifies this change. I am going to discuss three of those arguments today.

The most common argument cited is that this legislation is too technical and too complex to have a 6-year sunset. This is certainly a complex bill, but this is not the first time the 110th Congress has tackled complex issues. We have already waded through several different and complex bills, such as immigration reform, ethics and lobbying legislation, and even a vast energy bill.

We are not reinventing the wheel with surveillance law, as this is a FISA modernization bill. But it is important to note how Congress has previously legislated in this area. The 1978 FISA law made dramatic changes to our surveillance laws and oversight mechanisms. While FISA has been discussed extensively, what has not been stated nearly enough is that the 1978 FISA had no sunset. Given that FISA had no sunset, let's look at how Congress has previously legislated FISA amendments with regard to sunsets.

Sunsets are not common in previous laws amending FISA. Other than the PATRIOT Act and the PATRIOT Act reauthorization, seven of the eight public laws amending FISA had no sunsets on FISA provisions, and the remaining public law had a sunset on only one of those provisions.

Now, this statistic speaks for itself. What is so different about this bill? I do realize it contains massive new congressional oversight provisions which could possibly hinder our collection efforts, and that we may need to revisit it for this reason. However, if this is the case, we obviously do not need a sunset to do this. We can legislate in this area whenever we want to.

A second reason I have heard that some support the Cardin amendment is that this sunset will keep Congress more engaged. One of my colleagues previously stated that a sunset ''gives Congress the ability to stay involved.'' Congress should not need sunsets to stay involved. We do not need legislative alarm clocks to go off in 4 years in order to address national security. I wake up every day thinking about how we might protect our fellow Americans. I certainly do not need a sunsetting bill to remind me about national security and oversight, and neither should my colleagues.

The final reason I have heard for a 4-year sunset is the idea that the next administration should be given an opportunity to address this issue and that a sunset fosters cooperation between Congress and the White House. Along these lines, one of my colleagues previously stated: Having a sunset gives us a much better chance to get cooperation . . . between the Congress and the White House. Once again, the next President can weigh in on this topic whenever and however he or she wants to. And regarding the idea that we should include a 4-year sunset to foster cooperation between two branches of Government—do we need a statute to influence the separation of powers? I say to my colleagues that the relationship between the branches of Government should be fostered by natural restrictions contained in the Constitution of the United States, not by an artificial sunset provision in an intelligence bill.

The very idea of a 4-year sunset understates the importance of timeline implementation of new legislation. It takes a great deal of time to ensure that all of our intelligence agencies and personnel are fully trained in new authorities and restrictions brought about by congressional action. This is not something that happens overnight. We cannot wave a magic wand and have our Nation's intelligence personnel instantaneously cognizant of every administrative alteration imposed by Congress. Like so many other things in life, adjusting for these new mechanisms takes time and practice.

While certain modifications are necessary, do we want to make it a habit of consistently changing the rules? Don't we want our analysts to spend their time actually tracking terrorists, or is their time better spent navigating administrative procedures that may be constantly in flux?

I know my preference is that our analysts be given the time to use the lawful tools at their disposal to keep our families safe.

I do not want to see them spending all their time burying their heads in administrative manuals which change from day to day whenever the political winds blow.

After all of the efforts by many in this body to write a bill that provides a legal regime to govern contemporary technological capabilities, I am certainly not alone in my opposition to a sunset provision. In fact, my views are completely in line with what the Senate has done in the past when amending FISA. The administration strongly opposes a sunset, and Attorney General Mukasey confirmed this opposition during last week's oversight hearing here in the Senate.

The fact is that this administration will not be here to see this sunset occur. Why would they care if there is a sunset in the bill or not? Their opposition demonstrates that those who are in charge of protecting our country know that a sunset is a bad idea and their opposition is based in logic and practical application. The administration knows that they will not be here, but the intelligence analysts who protect our country will. These analysts are not politically appointed, and do their job regardless of who the President is or what party the President represents. They need the stability of our laws to effectuate long term operations to prevent terrorist attacks, not guesswork which could hinder intelligence gathering practices.

We have already had a trial run with the 6-month sunset of the Protect America Act. Enough of the quick fixes, let's have confidence in the work product created by the nearly 10 months we have spent on this issue. A shorter sunset gives us an excuse to not legislate with conviction, and this is an excuse we should not make.

The 95th Congress had the ability to decipher complex problems and pass FISA with no sunset, and the 110th Congress can certainly modernize it without second guessing our capabilities by approving the Cardin amendment. I will oppose this amendment, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

## ECONOMIC STIMULUS

Mr. CASEY. Mr. President, in the remaining moments of morning business, I wish to highlight a couple important points about our economic stimulus efforts in the Senate.

We have had an opportunity over the last couple weeks to analyze carefully what the American people expect in terms of a jolt to our economy and what they expect this body to do. Unfortunately, we have been stymied by a lot of politics. I think it is important to point out very briefly the elements of what the Senate is trying to do, at least on the Democratic side and, secondly, to highlight its importance to the American people.

First of all, with regard to the basic elements—I will not go into a long discussion—in order to stimulate this economy, we have to invest in strategies we know will work. One of those is unemployment insurance. We know that. All the economists say that. It is not because Democrats assert that; economists say one of the only ways that is proven to jolt our economy is to invest in unemployment insurance. This proposal on the Democratic side does that. The House proposal doesn't do that in the area of unemployment insurance. It doesn't address that.

The package this side of the aisle has been pushing is a $500 rebate. It is across the board for everyone and obviously for those who are married it is double that. But significantly, in this proposal 20 million American senior citizens are provided some relief. That wasn't addressed in the House proposal. I think that is an important omission. In order to get this right, in order to jolt our economy, we need to help seniors. We also need to make sure a quarter of a million disabled veterans are helped as well. That is an important feature.

Thirdly, avoiding foreclosure; doing everything we can in this stimulus package in a short-term way to help families avoid foreclosure is another critically important element.

Home heating costs: In my home State of Pennsylvania—and I know the same is true in Ohio and across the country—there has been a 19-percent increase in the costs that families have to heat their homes, in 1 year. So if that is happening in Pennsylvania, we know it prevails around the country. This proposal in this Chamber does that. It adds $1 billion for home heating costs.

Finally, helping businesses and energy: As to the cost to businesses, I think small businesses should get help in this rough economy, and this proposal helps our businesses. It also makes investments we should have—or I should say implements strategies we should have done months ago when it comes to incentivizing energy efficiency and other tactics to move toward a more energy independent economy.

So whether it is energy, whether it is helping businesses, whether it is making sure our seniors get relief, that our families get relief and that we focus on unemployment insurance, home heating costs, all these elements are critically important. It is not perfect. The Presiding Officer knows—and he shares this view with me—we wanted to do more with regard to food stamps. We are still going to try on that. But if that doesn't happen and some other things don't happen that I want, we still have to move this forward. I wish the other side of the aisle would allow us to go forward in a way that addresses these basic problems. We have seen a lot of talk on the other side but not nearly enough action to say we are going to support a proposal, not just what the House sent us but an improved and a much more significant proposal to hit this economy in the way we should hit it: With a stimulus to get the economy moving, to create jobs, to provide relief for our families, and to move into the future together. We can do that here. We should do it this week and make sure we don't pass something which is watered down and which would not do the job.

I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## FISA AMENDMENTS ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2248, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2248) to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Pending:

Rockefeller-Bond amendment No. 3911, in the nature of a substitute.

Whitehouse amendment No. 3920 (to amendment No. 3911), to provide procedures for compliance reviews.

Feingold amendment No. 3979 (to amendment No. 3911), to provide safeguards for communications involving persons inside the United States.

Cardin amendment No. 3930 (to amendment No. 3911), to modify the sunset provision.

Feingold-Dodd amendment No. 3915 (to amendment No. 3911), to place flexible limits on the use of information obtained using unlawful procedures.

Feingold amendment No. 3913 (to amendment No. 3911), to prohibit reverse targeting and protect the rights of Americans who are communicating with people abroad.

Feingold-Dodd amendment No. 3912 (to amendment No. 3911), to modify the requirements for certifications made prior to the initiation of certain acquisitions.

Dodd amendment No. 3907 (to amendment No. 3911), to strike the provisions providing immunity from civil liability to electronic communication service providers for certain assistance provided to the Government.

Bond-Rockefeller modified amendment No. 3938 (to Amendment No. 3911), to include prohibitions on the international proliferation of weapons of mass destruction in the Foreign Intelligence Surveillance Act of 1978.

Bond-Rockefeller modified amendment No. 3941 (to Amendment No. 3911), to expedite the review of challenges to directives under the Foreign Intelligence Surveillance Act of 1978.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I wish to make a few comments on the amendment of the Senator from Wisconsin and what he referred to as the ''bulk collection'' amendment which he discussed yesterday and which is amendment No. 3912. I would ask that this time be taken from the opponents of the amendment, if that is all right with my vice chairman.

The Senator from Wisconsin is offering an amendment that he argues will prevent what he calls ''bulk collection''. The amendment is intended, as described by the Senator from Wisconsin, to ensure that this bill is not used by the Government to collect the contents of all the international communications between the United States and the rest of the world. The Senator argues that the amendment will prevent ''bulk collection'' by requiring the Government to have some foreign intelligence interest in the overseas party to the communications it is collecting.

I regret to say I must oppose this amendment strongly. I do not believe it is necessary. I do believe, as drafted, the amendment will interfere with legitimate intelligence operations that

protect the national security of the lives of Americans.

In considering amendments today, we need to consider whether an amendment would provide additional protections for U.S. persons and whether it would needlessly inhibit vital foreign intelligence collection. I do not believe the amendment, as drafted, provides additional protections. Furthermore, intelligence professionals have expressed their concern that this amendment would interfere with vital intelligence operations, and there are important classified reasons underlying that concern.

Let us review why the amendment is unnecessary. First, bulk collection resulting in a dragnet of all the international communications of U.S. persons would probably be unreasonable under the fourth amendment. No bill passed by the Senate may authorize what the fourth amendment of the Constitution prohibits. What is more, the committee bill, in fact, explicitly provides that acquisitions authorized under the bill are to be conducted in a manner consistent with that same fourth amendment of the Constitution.

Second, the committee bill stipulates that acquisitions under this authority cannot intentionally target any person known to be located in the United States. And to target a U.S. person outside the United States, the Government must get approval from the FISA Court.

Third, the committee bill increases the role of the FISA Court overseeing the acquisition activities of the Government. The bill requires court approval of minimization procedures that protect U.S. persons' information. It maintains the prior requirement of court approval of targeting procedures.

In the unlikely event the FISA Court would give its approval to targeting procedures and minimization procedures that allow the Government to engage in unconstitutional bulk collection, the committee bill also strengthens oversight mechanisms in the executive and legislative branches, such as requiring assessments by the inspectors general in the Department of Justice and relevant agencies. These mechanisms are intended to ensure that such activity is detected and prevented.

The sponsor of the amendment says his amendment only requires the Government to certify to the FISA Court that it is collecting communications of targets for whom there is a foreign intelligence interest. But the committee already requires the Attorney General and the Director of National Intelligence to certify to the FISA Court that the acquisition authorized under the bill is targeted at persons outside the United States in order to obtain foreign intelligence information. Because the remedy does not improve upon the protections in the bill for Americans and places new burdens on the surveillance of foreign targets overseas, I thus oppose this amendment and urge that it be rejected.

I yield the floor and reserve the remainder of the opponents' time.

The PRESIDING OFFICER. The senior Senator from Missouri is recognized.

Mr. BOND. Mr. President, I yield myself 6 minutes from the opposition to the amendment No. 3979, the Feingold-Webb sequestration.

During yesterday's sessions and prior sessions, there have been, regrettably, a number of inaccurate statements about the amendments we debated. Several of these amendments go to the very heart and strike at the very heart of foreign targeting. It is not an understatement to say that if they are adopted, they could shut down our intelligence collection and cause irreparable damage to our national security. So I am compelled to set the record straight. Working with my colleague and good friend, the chairman of the committee, Senator ROCKEFELLER, we want our colleagues to know what impact these amendments have.

We have made great progress in the Senate Intelligence Committee on the FISA Amendments Act of 2008 in providing additional protections, but we did so working with the intelligence community to make sure the measures we put in the bill would actually work.

Now, the first amendment we debated was amendment No. 3979, the sequestration amendment supported by and sponsored by Senators FEINGOLD and WEBB. In explaining this amendment, supporters claimed the Protect America Act was ''sold repeatedly'' as a way to collect foreign-to-foreign communications without a court order and this amendment allows this collection. We saw from the House RESTORE Act, which the DNI has told us—the Director of National Intelligence, whom I will refer to as the DNI—and from the debate on the Protect America Act that the focus on foreign-to-foreign communications is misplaced. The Protect America Act was intended to allow foreign targeting, just like this bill and for good reason. We cannot tell if a foreign terrorist is going to be calling or communicating with another foreign terrorist whether in some other country or whether some of that communication may occasionally come to the United States, and there is no way to tell. So it does no good to give the intelligence community authority to collect only foreign-to-foreign communication. You can't tell. That means you can't collect on any without getting a FISA Court or a FISC order. That was an impossible burden that the FISC judges told us overwhelmed and shut down their operations and did not protect American citizens. Yet we were told yesterday this amendment will not damage or slow down collection.

This amendment will not just slow down collection; it will stop it. It will stop it. In the words of one intelligence official, it would ''devastate our operations.''

Now, our bipartisan bill gives the intelligence community the ability to target terrorists, foreign terrorists overseas. That targeting is not, as has been suggested on the other side, ''dragnet surveillance.'' Rather, the intelligence community will be acquiring communications of foreign terrorists, spies, and others who seek to do us harm. That is not a dragnet; that is targeted. But if this amendment were to be adopted, its unreasonable limitations will prevent the intelligence community even from beginning the collection.

Now, I argued yesterday this amendment would prevent the intelligence community from intercepting the communications of Osama bin Laden with somebody in the United States. The Senator from Wisconsin disagreed, calling my argument questionable and claiming the amendment in no way hampers the ability to fight al-Qaida. That is not true. I find it interesting because that is not what his amendment says. First, the intelligence community can't even start the collection because there is no way to know if a terrorist, including bin Laden, is going to call or be called by a person in the United States. Second, from the amendment, page 2, lines 10 to 16:

> Such communications may be acquired if there is reason to believe that the communication concerns international terrorist activities directed against the United States, or activities in preparation therefor.

That means if bin Laden were planning an attack against the United Kingdom or against our foreign military bases or our foreign embassies abroad and calls into the United States to talk with an associate, we could not capture that call and protect our troops, protect our citizens, protect our officers overseas, because under the terms of the amendment, it does not concern activities directed against the United States. Not only is the limitation dangerous, it is unwise, unhelpful, and could lead to significant intelligence shortfalls.

Another dangerous aspect of the amendment is that it would foreclose the collection of foreign intelligence relating to nonterrorist threats. Our Nation faces daily threats, for example, from the proliferation of weapons of mass destruction. I have an amendment that deals with this issue specifically. What about North Korea, Iran, and Syria? Under this amendment, none of that information could be collected if the communication was to or from the United States. That is a limitation that should make all of us uncomfortable. There is no basis for it, it is unreasonable, and it could lead our country into severe jeopardy.

The DNI and the Attorney General agree with my reading of the amendment. Yesterday, we received a letter from them expressing their views about these amendments. The DNI and Attorney General stated that if this amendment is part of the bill presented to the President, they would recommend a veto. They wrote this in their letter:

> This amendment would have a devastating impact on foreign intelligence surveillance

operations; it is unsound as a matter of policy; its provisions would be inordinately difficult to implement; and thus it is unacceptable.

Ironically, this amendment is being advertised as the best way to protect America's privacy. But a fundamental problem with the amendment is that we can never know ahead of time what a communication says. Let's think it through. In order to figure out whether the communication concerns international terrorism, for example, an analyst will have to review the content of it. That actually results in more of an invasion of privacy than would ever occur under the standard minimization procedures that NSA uses every day. That makes no sense if we are trying to protect privacy.

Mr. President, it is news to me that the Intelligence Committee bill, as claimed on the other side, has no judicial involvement and no judicial oversight. I have said it before. This bill has more judicial oversight and involvement in foreign intelligence surveillance than ever before. There is court review and approval of the joint certification by the Attorney General and the DNI and of the targeting minimization procedures. If the court finds any deficiency in these documents, the Government must correct it or cease the acquisition. That is not an empty oversight.

The Intelligence Committee bill doesn't stop there. We took tremendous care to make sure there were specific protections for Americans' privacy in the bill. I suggest all Members look closely at these protections: express prohibitions against reverse targeting, against targeting persons inside the United States without a court order, against conducting any acquisition that doesn't comply with the fourth amendment. This bill goes further than ever before in ensuring that there are protections for Americans in the area of foreign targeting.

We heard the tired accusation that this bill will allow the intelligence community to intercept communications of anyone; that it gives ''unrestrained access to communications of every American.'' That is just plain wrong. Communications of U.S. persons will be intercepted only if those persons are talking to foreign terrorists or spies. And because of the minimization procedures, only those specific communications will be intercepted, and if they don't contain foreign intelligence value, then they will be minimized or suppressed.

According to the Senator from Wisconsin, this amendment is necessary because the minimization procedures in FISA are ''quite weak'' and inadequate. I am sure the FISA Court judges who have reviewed and approved these procedures would appreciate the implication that they are doing a bad job of protecting the privacy of Americans. Ironically, it is that same court that, under the Senator's amendment, will control the Government's access and use of incidental communications.

Mr. President, I reserve the remainder of our time and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I will use some of my time on a couple of these amendments. I know it must be difficult for the Chair to figure out which time to apply to which amendments, but I will try to identify them.

First, I will speak with regard to Feingold-Webb-Tester amendment No. 3979, which the Senator from Missouri was addressing. He referred to our concern that the rights and privacy of Americans could be affected by this bill as a ''tired accusation.'' I object to that characterization. I think this is clearly the kind of thing we should be worried about. I will tell you what is a tired accusation: the notion that somehow our amendment would affect the ability of the Government to listen in on Osama bin Laden. That is a tired and false accusation. The Senator has said that if bin Laden or his No. 3 man—whoever that is today, because we killed the last No. 3 man—calls somebody in the United States, we cannot listen in to that communication unless we have an independent means of verifying that it had some impact on threats to our security from a terrorist threat. That is what he claims, that we would not be able to listen in on that conversation. That is false.

The Feingold-Webb-Tester amendment specifically does not require a FISA Court warrant to acquire and disseminate the communications of any foreigner overseas who is suspected of terrorism. Mr. President, there is no separate threat requirement. The amendment merely requires that the Government label terrorism-related communications that have one end in the United States so they are traceable for subsequent oversight. And it simply requires that when the Government accesses and disseminates terrorist-related communications that it has already acquired that the court just be informed with the brief certification. I don't know where the Senator gets this bizarre idea that somehow you cannot listen in on a conversation of Osama bin Laden. I don't think it is credible to anybody that that would be the case.

Finally, he raises the concern that somehow we are insulting the FISA Court, saying they are not doing a good job. To the contrary, we are trying to give them the power to enforce their will. We are trying to give them the ability to say: Wait a minute. You guys are not doing what you said you were going to do. That is not an insult. That is essential for the court to be able to do its job. Let's worry less about the alleged and, frankly, false notions about the feelings of a secret court and worry more about the rights and privacy of perfectly innocent Americans.

Mr. President, I turn now to amendment No. 3915, another amendment I offered known as the use limits amendment. As I explained earlier this week, my amendment simply gives the FISA Court the option of limiting the Government's use of information about information about U.S. persons that is collected under procedures the FISA Court later determines to be illegal. That is about as minimal a safeguard as you can get.

It is unfortunate that some of those who oppose my amendment are mischaracterizing what it does. The Attorney General and the DNI sent the majority leader a letter yesterday in which they expressed their objections to this amendment. Twice in the letter, they stated that this amendment would place limits on the use of information that doesn't concern U.S. persons. That is flat-out false, Mr. President. The use limits proposed in this amendment specifically apply to ''information concerning any United States person.'' That is what it says. Use limits in this amendment apply only under those circumstances. There is nothing ambiguous about this language. These patently false claims that the amendment applies to information about non-U.S. persons just show the lengths to which opponents of the amendment will go to generate opposition to this or any other reasonable amendment.

We have also heard that the amendment would create a massive operational burden. Mr. President, that also just isn't true. The Government already does what is necessary to implement the use limits in the amendment.

First, declassified Government responses to oversight questions of the Congressional Intelligence Committees reveal that the Government is already labeling communications obtained under the so-called Protect America Act. So the Government already tracks which communications are acquired under these particular authorities, which would be the first step here.

Second, the Government already has to comply with minimization requirements that are supposed to protect information about U.S. persons. These requirements kick in whenever the Government wants to disseminate any acquired communications that include information about U.S. persons. That means intelligence analysts already have to determine, before any communications collected under these authorities can be used in any of the contexts we are talking about here, whether they contain any information about U.S. persons. Indeed, the administration constantly reminds us of this fact when claiming that minimization requirements do enough to protect Americans.

Mr. President, given that the Government is already required and equipped to examine any communications it proposes to use in order to determine whether U.S. person information is present, the argument that the amendment somehow imposes a massive new burden is very difficult to understand.

Perhaps the explanation lies in the administration's repeated statements

that the amendment would put limits on the use of information about non-U.S. persons. If this were true, then it is conceivable that my amendment would create an additional operational burden. But those statements are completely and utterly false, as I have explained. The amendment explicitly states that the use limits apply to ''information concerning any United States person''—information that is already subject to minimization requirements.

I want to also address the argument the chairman of the Intelligence Committee made that this amendment is somehow different than the existing use limits for emergency surveillance. The chairman argued that the amendment, unlike the emergency use limits, could affect ''thousands'' of communications. As I pointed out yesterday, the amendment addresses that concern by creating a huge exception to the use limitations, an exception that is not present in the emergency use limits provision. Under the amendment, the FISA Court can allow the Government to use even information about U.S. persons that is obtained by unlawful procedures, as long as the Government fixes the problem with the procedures. So, in fact, this amendment is far less restrictive than the use limits for emergency surveillance, despite the claim of the chairman otherwise.

Even more important, we have to remember what these thousands of communications are. The only information that would be subject to use limits is information about U.S. persons collected under illegal procedures—procedures that failed to reasonably target people overseas. The underlying bill prohibits the Government from collecting this information in the first place. My amendment gives this prohibition some teeth by limiting the use of information that has been illegally collected.

The opponents of this amendment may argue that the government has no intention of doing anything that would be unreasonable under the law. My response is, if it does, there ought to be some enforcement. There ought to be a way to make sure that doesn't happen, not just the assurance of the chairman and vice chairman.

Moreover, if the Government has collected thousands of communications illegally, isn't that all the more reason to try to contain the damage and limit the impact on innocent Americans? That is not hamstringing the Government; it is just requiring the Government to comply with the law that we are actually passing.

My amendment simply provides an incentive for the administration to follow the law as it is written. If we pass a law that has no meaningful consequence for noncompliance with the law, I think we are taking a real gamble as to whether the administration will choose to comply. I am not personally willing to accept the odds on that one.

Once again, I urge my colleagues to support this amendment, and I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I ask my esteemed vice chairman if I might have 6 minutes to oppose Senator FEINGOLD's reverse targeting amendment No. 3913.

Mr. BOND. I am happy to yield that time to the chairman.

Mr. ROCKEFELLER. The Senator from Wisconsin has an amendment that requires a FISA Court order if the Government is conducting surveillance of a person overseas, but a significant purpose of the surveillance is to collect the communications of a person inside the United States with whom the target is communicating.

I share the Senator's goal in protecting the privacy interests of Americans, but I am afraid this amendment, as drafted, is unworkable and unnecessary.

The amendment is described as a way to prevent reverse targeting—circumstances in which the Government would target persons overseas when its actual target is a person within the United States with whom the overseas person is communicating.

The fact is, reverse targeting is prohibited under FISA today. I repeat, it is prohibited under FISA today. If the person in the United States is the actual foreign intelligence target, the Government must seek a FISA order, and, in fact, the Government would have to have every incentive to do so in order to conduct comprehensive surveillance of such a person.

What is more, the base bill, S. 2248, makes the prohibition on reverse targeting explicit. The Government cannot use the authorities in this legislation to target a person outside the United States if the purpose of such acquisition is to target for surveillance a person within the United States.

In addition, the base bill, the Intelligence Committee bill, also strengthens the protection of U.S. person information that is collected in the targeting of foreign targets overseas by requiring that the FISA Court approve the minimization procedures that apply to this collection activity.

The Feingold reverse targeting amendment, however, goes too far. The amendment would prohibit the Government from using the authorities of this act ''if a significant purpose'' of the acquisition is to ''acquire the communications'' of a particular known person within the United States. In order to acquire such communications, the Government would be required to seek a regular FISA Court order.

The problem is that we are revising the Foreign Intelligence Surveillance Act today in large measure precisely because we want the intelligence community to have the ability to detect and acquire the communications of terrorists who call into the United States. In other words, in order to detect and prevent terrorist attacks, finding out if a foreign terrorist overseas is in contact with associates in the United States is actually a significant purpose of this legislation, and it will always be a significant purpose of any targeting of a foreign terrorist target overseas by the intelligence community.

As the Statement of Administration Policy—that is objections usually that come over from the White House—points out:

> A significant purpose of the intelligence community activities is to detect communications that may provide warning of homeland attacks and that may include communication between a terrorist overseas who places a call to associates within the United States. A provision that bars the intelligence community from collecting those communications is unacceptable.

Who is to say that person from overseas is not a terrorist and he is contacting a person in the United States to discuss something which is not in the national interest or which has intelligence implications? You cannot in good conscience bar the intelligence community from collecting these communications. That is unacceptable.

Again, reverse targeting is prohibited under current law. I think that is the third time I have said that. Reverse targeting is prohibited by the committee bill. The amendment is not needed to achieve its stated goals. It will harm vital intelligence collection. I urge the amendment be defeated.

I reserve the remainder of our time.

The PRESIDING OFFICER (Mr. CASEY). Who yields time?

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I will speak with regard to amendment No. 3913, the one about which the chairman just spoke, the so-called reverse targeting amendment I have offered. Reverse targeting is what happens when the Government wiretaps persons overseas when what they are really interested in is the Americans with whom these foreigners are talking. I think most of my colleagues would agree that this bill should not open up a backdoor to get around the requirement in FISA for a warrant to listen in on Americans at home.

The lack of any substantive arguments against my amendment is made clear by the letter the DNI sent on Tuesday. The arguments just offered by the chairman were almost identical to the arguments offered by the DNI and by the Attorney General. In fact, that letter, which severely mischaracterizes the amendment, actually underscores why the amendment is good both for civil liberties and for national security.

First, the letter confirms that reverse targeting is not, in fact, prohibited by the underlying bill. We keep hearing the chairman and vice chairman say it is already prohibited. It is not. The DNI writes that the Intelligence Committee bill only prohibits warrantless collection when the American is ''the actual target.'' That cannot be read as a prohibition on reverse

targeting. That is just a prohibition on direct targeting of an American at home, and it does nothing to protect Americans from what the DNI himself has said is unconstitutional.

Second, the letter cites ''operational uncertainties and problems,'' but it does not bother to identify what those are. Yes, my amendment would require a new procedure, just like everything else in this bill, but the Government should already have procedures to protect the constitutional rights of Americans. If it does not, that is all the more reason to adopt the amendment.

Third, the letter actually makes one of the strongest arguments in favor of my amendment when it warns of insufficient attention to the American end of an international terrorist communication. If a foreign terrorist is talking to an American inside the United States, the intelligence community should get a FISA warrant on that American so it can listen in on all his communications, and it certainly would have no problem getting that warrant. Without that warrant, the Government will never get the full picture of what that American is doing or plotting. Yet the DNI's letter seems to argue that the Government would not want to get a FISA Court warrant to listen in on all the communications, including the domestic communications, of a terrorist inside the United States. I do not believe this is a serious argument, but if it were, it would suggest that our Government is not doing everything it can do to track down terrorists.

Finally, the letter seriously mischaracterizes the amendment. The amendment does not bar acquisition of communications between terrorists overseas and their associates in the United States. It does not in any way affect the Government's ability to discover and collect those communications. It does not apply to incidental collection of communications into the United States, and it does not even apply when the Government has identified a known individual with whom the foreign terrorist is communicating. Only when a significant purpose of the surveillance is to get information on a person inside the United States does the Government need to get a court warrant. That is not just required by the Constitution of the United States, it is how the Government can most efficiently and effectively protect us.

I hope my colleagues will support this modest proposal to prevent these new powers from opening a huge loophole to the requirement in FISA that the Government get a court order to target Americans in the United States.

Mr. President, I reserve the remainder of my time on this amendment, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. BOND. Mr. President, I yield myself 3 minutes on amendment No. 3913.

It is interesting to hear that the proponent of this amendment thinks the letter laying out the reasons against the amendment are reasons for it. That is a trick I have not learned, to say that when somebody says that the reverse targeting amendment would make it impossible when that person and those people really represent the agency responsible and the oversight body of the Department of Justice somehow makes their case.

I also call the attention of my colleagues to a statement from the Civil Liberties and Privacy Office of the Office of the Director of National Intelligence. In that statement, the Civil Liberties and Privacy Office says:

> Concerns have been raised that the PAA could result in the interception of U.S. person communications. As explained in the Department of Justice September 14 letter, and in a letter by the DNI's Civil Liberties Protection Officer dated September 17, 2007, U.S. persons' privacy interests are protected through ''minimization procedures,'' which must meet FISA's statutory definition. In addition, ''reverse targeting'' is implicitly prohibited under existing law.

As a side note, Mr. President, this measure explicitly prohibits reverse targeting, but the Privacy Office goes on to say:

> The SSCI bill in addition requires review of minimization procedures and explicitly prohibits reverse targeting. In addition, the bill provides the FISA court with ongoing access to compliance reports and information about U.S. person disseminations and communications, and the explicit authority to correct deficiencies in procedures. The bill also requires annual reviews of U.S. person disseminations and communications and extensive reports to Congress.

This is a clear statutory framework. As a practical matter, if there was a desire to target someone in the United States, if that person was thought to have foreign intelligence information and acting as an agent of a foreign power, an officer, or employee, a FISA Court order is the simplest way to do it. Nobody has explained how you can target a foreign terrorist to get collections on a particular U.S. person unless that person is engaged in a terrorist activity, and you have to target an overseas person who has foreign intelligence information, and that is the legitimate reason for making the collection against the foreign target. No terrorist information. The information is minimized and not used.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENDING NOMINEES

Mr. REID. Mr. President, I have a friend. I have known him for a long time. His name is Steve Walther. Steve Walther was a very prominent Nevada lawyer, a senior partner in a law firm, with qualifications that are unsurpassed. I have always liked Steve very much. And he made a comfortable living. I called him once and said: Steve, have you ever considered doing something different?

A wonderful story about Steve, to show what a tremendously good guy he is. He has a little boy named Wyatt. Steve married a woman and he raised their children. They were his children once married, but he had never had his own child. His wife went to the doctor, and she was nearing 50 years old and was sick, and found out she was having a baby. So late in life they had this baby, and I will never forget what she said. She said: When I had my first two babies, time went by so slowly. But she said: Now I am older and understand, and I want everything to be fine, so I can't take enough time to make sure the baby is fine. And the baby is fine.

Anyway, I said to Steve: You could afford to come back here. How would you like to be a member of the Federal Election Commission? He is not a Democrat; he is an Independent. He has done things for decades with the American Bar Association, held all kinds of prominent positions with the American Bar Association nationally. He said: OK, I think it would be a good idea. Wyatt can come back and spend some time in Washington. So he served for nearly two years on the Federal Election Commission. Everybody said he was outstanding, as I knew he would be.

Also on that Federal Election Commission, prior to the first of the year, was another Democrat by the name of Bob Lenhard. He had served on the FEC with Steve. He and Steve worked well together. They worked well together with everybody on the Commission, and he and Steve did a good job.

The Federal Election Commission is critically important because it enforces our Nation's campaign finance laws. Both these nominees lost their jobs at the end of last year because the Republicans refused to permit a vote on their nominations to the FEC. They said they would not allow an up-or-down vote on these nominations of Lenhard and Walther. Nothing about their qualifications. They were both outstanding members of the Federal Election Commission. The reason they would not allow a vote on them is they would not allow a vote on their own nominee, a man by the name of Hans von Spakovsky. They are filibustering their own nominee.

I said: Let's vote on all of the FEC nominees, any order you want. We will vote on ours first, last, we don't care. Let's just have a vote on them. No. Unless we would guarantee von Spakovsky would pass, no. I don't know if Mr. Spakovsky would pass. I suspect the Republicans don't think so. But it seems fair to me that we should have votes on these nominees.

The record over the years is full of remarks by my Republican colleagues characterizing the up-or-down vote as the gold standard of reasonableness in Senate process. That is apparently not the view when it comes to one of their nominees, who would actually stand a chance of losing a vote. Republicans won't allow a vote on our Democrats unless we approve this person. That doesn't make sense.

The reason these FEC nominees, including Steve Walther, have not been approved rests squarely with the White House and the Republicans.

Mr. President, I ask unanimous consent to have printed in the RECORD two editorials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 31, 2008]

WHILE THE ELECTION WATCHDOG WANDERS

The presidential campaign's heated fundraising sweepstakes finds lobbyists hurriedly ''bundling''—amassing additional hundreds of thousands from donors to re-stake surviving contenders for the next primary rounds. (Lobbyists reportedly bundled $300,000 for Senator John McCain in one night in Washington after his stock revived on the campaign trail.)

In packaging political influence by superlarge chunks, money bundlers are at least as crucial to understanding where candidates stand as their campaign vows. Fortunately for voters, a new election law mandates the disclosure of the names of lobbyists and other bundlers working the high-roller realm of donations of $15,000 or more. Unfortunately for the same voters, this vital law cannot yet be implemented.

A partisan standoff blocks the Senate from filling four existing vacancies on the Federal Election Commission. The six-member panel is powerless to form a quorum and write the regulations needed to shed sunlight on bundling. Senator Mitch McConnell, the Republican minority leader, is refusing to allow individual up-or-down majority votes on nominees for the commission. Mr. McConnell threatens a filibuster unless they are voted on as a single package—an obstructionist tactic to protect a highly unqualified Republican nominee, Hans von Spakovsky, from rejection in a fair vote.

Mr. von Spakovsky is a notorious partisan who previously served the Bush administration as an aggressive party hack at the Justice Department. There, he defended G.O.P. stratagems to boost Republican redistricting and mandate photo ID's in Georgia—a device to crimp the power of minorities and the poor who might favor Democrats at the ballot.

President Bush refuses to withdraw the von Spakovsky nomination, while the Democrats demand he be considered on his individual record, not yoked to three less controversial nominees. We urge the Senate majority leader, Harry Reid, to highlight this blot on democracy by moving the von Spakovsky nomination as a separate measure and demanding a cloture vote. Force the Republicans to either filibuster against their own unqualified partisan or dare to vote for him in broad daylight.

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[From the Washington Post, Jan. 28, 2008]

UP OR DOWN

''We need to get him to the floor for an up-or-down vote as soon as possible,'' Sen. Mitch McConnell (R-Ky.) said of Michael B. Mukasey, then the nominee for attorney general. John R. Bolton ''deserves an up-or-down vote so that he can continue to protect our national interests at the U.N.,'' Mr. McConnell said of the nominee to be United Nations ambassador. ''Let's get back to the way the Senate operated for over 200 years, up-or-down votes on the president's nominee, no matter who the president is, no matter who's in control of the Senate,'' he said during the dispute over judicial filibusters.

Mr. McConnell's devotion to the principle of up-or-down votes for nominees, it turns out, has limits: Apparently fearing defeat if a simple majority vote were allowed, the minority leader has refused to accept Senate Democrats' offer for such a vote on President Bush's choice for a Republican seat on the Federal Election Commission. The consequence is that, as the country begins an election year, the agency entrusted with overseeing enforcement of the federal election laws is all but paralyzed: Only two commissioners are in place, meaning that the agency, six members when it is at full strength, cannot initiate enforcement actions, promulgate rules or issue advisory opinions.

The standoff involves Hans A. von Spakovsky, a former official in the Justice Department's civil rights division who had been serving as an FEC commissioner until his recess appointment expired last month. Democrats and civil rights groups argue, with some justification, that Mr. von Spakovsky's tenure at Justice was so troubling that he does not deserve confirmation to the FEC post. Some Democrats had threatened to filibuster the nomination, but Senate Majority Leader Harry M. Reid (D-Nev.) managed to offer an up-or-down vote on each of the four pending nominations to the agency, two Republicans and two Democrats. But Mr. McConnell and fellow Republicans have insisted that the nominees must be dealt with as a package, with no separate votes allowed. To be fair to Mr. McConnell, the practice has been to vote on FEC nominees as a package to ensure that the politically sensitive agency remains evenly divided between the two parties. But that has not been an absolute rule; indeed, the last nominee who generated this much controversy, Republican Bradley A. Smith, had a separate roll call vote and was confirmed 64 to 35 in 2000. But Senate Democrats could commit to a quick vote on a replacement nominee, if they were able to muster the votes to defeat Mr. von Spakovsky.

We have suggested previously that it is more important to have a functioning FEC than to keep Mr. von Spakovsky from being confirmed. But Mr. McConnell ought to explain why the up-or-down vote he deemed so critical in the case of Mr. Mukasey, Mr. Bolton or appellate court nominee Miguel A. Estrada is so unacceptable when it comes to Mr. von Spakovsky.

Mr. REID. Mr. President, I can gather one thing from the President's unwillingness to resolve the Federal Election Commission problem. That is that they would rather have no election watchdog in place during an election year.

The background on the FEC makes the call from Mr. Walther particularly remarkable. Listen to this, now. It even gets better.

Steve Walther called to tell me he had been invited to the White House by the President to push for his nomination. I got calls from other people whom I had placed in the works to get approved by the Senate. They were all invited to the White House tomorrow morning. All nominees that the President has pending were invited to the White House, Democrats and all. Why? To complain about the Democrats not approving them.

This leads me to tell you a little experience I have had, and we have all had, with this President. The President is in fact hoping to have breakfast with all the nominees, Democrats and Republicans, now pending in the Senate, in an effort to force the Senate to confirm all these people. They must live in some alternative universe. I talked yesterday about the Orwellian nature of this White House, and this is it. He has invited people to the White House to complain about our not approving them when they—the President and the White House—are the reason we are not approving many of them.

He invited Mr. Walther, Mr. Lenhard and other Democratic nominees to the White House, along with all his Republican nominees, to get them to be a backstop, a picture, so he can come out and give one of his Orwellian speeches that these people are not being approved because of the terrible Democrats in the Senate. Actually, we are waiting for him to allow us to have votes on a number of these nominees.

The President's breakfast only needed one attendee. Only one. That is because only one nominee matters to this President. It should be an intimate breakfast between President Bush and a man by the name of Steven Bradbury. Why do I say that? I say that because of all the nominees the President will profess to care about at this breakfast, Steven Bradbury stands head and shoulders above all the others in the President's esteem. I am not guessing; I was told so by the White House.

Right before the Christmas recess, I called the President's Chief of Staff, Mr. Bolten. A wonderful man; I like him; easy to talk to and easy to deal with. I said: I tell you what, Josh. We are going to go into recess, and why don't we have an agreement on who the President wants to have recess appointed and, in fact, I will give you some suggestions. You can have a member of the Federal Reserve Board of Governors, you can have a Federal Aviation Agency, and you can have a couple of other Chemical Safety Board members. I said: Not only that, there are 84 other Republican nominees we will approve. There are 8 Democrats, 84 Republicans. Pretty good deal. He said: Let me check.

He called me back and he said: Well, what we want is to have a recess appointment of Steven Bradbury. I said: Josh, I didn't recall the name. Let me check. I checked with Chairman LEAHY, I checked with Senator DURBIN, who is a member of that committee, I checked with Senator SCHUMER, who is on that committee, and they and others said: You have to be kidding. This is a man who has written memos approving torture, and that is only the beginning.

Senator DURBIN—I don't know if he has time today—will lay that out in more detail.

I called Josh back and I said: Josh, that man will never get approved. He has no credibility. He said: Well, let me check with the President. He called back and said: It is Bradbury or nobody. I said: You are willing to not allow 84 of your people to get approved because of this guy? He said: Yes, that is what the President wants.

Now there are 84 nominees, and among them somebody Secretary Chertoff wanted badly. Secretary Chertoff called me personally on someone and he said: You have to give us this person. We have important things to do here. If I don't get her, they will send me somebody from OMB, and that will be a person who doesn't know anything from anything. You have to help me with this.

The head of Alcohol, Tobacco and Firearms, four Department of Defense assistant secretaries, the Deputy Director of the National Drug Control Policy, the Director of the Violence Against Women's Office, Assistant Attorney General, Under Secretary of Commerce for International Trade, Director of the Census, Solicitor for the Department of Labor—these are only a handful of the jobs of the 84.

Now, these jobs, all Republicans, all names given up to us by the President, are jobs these people have sought for their whole lives. Head of the Census, head of the National Drug Control Policy, Director of Violence Against Women's Office, Solicitor for the Department of Labor. Nope, they are not going to have a job.

I thought about that. That was a decision the President made, willing to throw 84 people under the bus, run over them, for one person he knew he couldn't get. That is 84 plus the 4 he could recess appoint. So what we did, we stayed in session during the entire holiday recess. But before we went out, I thought to myself, I don't know these 84 people. Some of them I have met, but these are jobs that are important to our country, jobs that are important to these individuals and their families. I made the decision that because the President is willing to do what I think is so unfair, so unreasonable, that doesn't mean I am going to be unfair and unreasonable. So I called Secretary Chertoff and others and said: Just because your boss is unreasonable and unfair, I am not going to be that way. So I am going to walk out on the floor and approve every one of them, which we did. So for him to have that meeting tomorrow takes about as much gall as I can even imagine, to have a meeting where he brings in all the people who have not been approved. And had I not been, in my own words, generous, he would have had 84 more people he would have had to invite down there.

I can't imagine how he could invite Democrats down to the White House. Several of them are being blocked in this body by Republicans. Same goes for a number of Republican nominees. Democrats are willing to approve them and Republicans stand in the way. Why would he invite them down there also? But he did, because there is an Orwellian thought process that goes on down there saying Democrats aren't allowing these people to get approved, which is the direct opposite of the truth.

All for one person it appears, Mr. Bradbury. Whatever the White House wants, Bradbury would give it to them in a legal opinion. We are not going to accept that. What the President is trying to do with this show tomorrow is so unreasonable, so unfair, and so out of step with reality—as is the budget he gave us on Monday—that I hope the American people understand what is going on in this country.

It is too bad we have a situation where the President of the United States would have a meeting in the White House and invite everybody to say: I am sorry you are not going to be approved, it is their fault, when the truth is, it is his fault.

Now, here are the people we confirmed. They are right here. Everybody can see them. We confirmed all of them. And had it been up to the President, not a single one would have been confirmed.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, I am glad the majority leader has come to speak about this issue. It is hard to imagine what is going through the mind of the President that he believes he can make an argument tomorrow with the meeting at the White House, that we have been unreasonable in dealing with his nominations.

Senator REID spelled out what happened. We tried, in many ways, to get some balance in nominations. That is done all the time so Republicans and Democrats will be appointed. It is done by both parties. I have seen it in the years I have been around the Senate. When Senator REID made that offer in December, the White House said: No, they would not do it unless they could have this one nomination, Mr. Bradbury. And I will have to say I think Senator REID went that extra mile, an extra 84 miles, as a matter of fact, and he basically said 84 of those Bush nominees would be confirmed.

The majority leader recounted several phone calls he received this week from Democratic nominees to bipartisan commissions. I heard from my friend, Tom Carper, not the Senator from Delaware but a friend of mine from McComb, IL, who has been nominated to serve on the board of directors of Amtrak.

Tom has been working on passenger rail issues for 20 years, 12 years as mayor of the city of McComb, IL, which is served by Amtrak. As mayor, he served as the chairman of the Amtrak Mayor's Advisory Council. He received national recognition for his leadership on Amtrak issues.

He saw firsthand the enormous potential that passenger rail service can have for towns, such as McComb, small towns that might be overlooked otherwise. He helped to make the potential of Amtrak service a reality. We have such a success story of Amtrak in Illinois in the last year or two, with dramatic increases in ridership. Tom saw this coming and was a real leader. He convinced the State of Illinois to double its State investment in Amtrak. He worked with a broad coalition of passenger, business, labor groups, and elected officials to increase Amtrak service across our State.

We are experiencing a renaissance in terms of passenger rail in our State in a short period of time. Senator REID was given an opportunity to fill a vacancy on the Amtrak board. I asked him to consider former Mayor Tom Carper of McComb, IL. He was kind enough to recommend him. There are seven voting members on the Amtrak bipartisan board—three Republicans, three Democrats, and the Secretary of Transportation. Currently, there are four vacancies on the board, which means the board does not have enough members for a quorum, and it forces the board to conduct business via an ''Executive committee.''

On our last day of session in December, Senator REID, I think through great effort and courtesy, rose above the President's refusal to cooperate on nominations and worked to confirm more than 80 nominations in a single day. But we could have—and should have—confirmed at least two more. Senator REID and I worked together and offered to confirm two nominees to the Amtrak board—one Democrat, Tom Carper, and one Republican, both of whom had been favorably reported by the Commerce Committee.

The Republicans objected. They insisted that we confirm one Democrat and two Republicans or none at all. Now, this ''all-or-nothing'' approach is not new. We have seen this before when it comes to nominations.

As the majority leader described, I think the most glaring example of this is the nomination of Steven Bradbury to be Assistant Attorney General. The majority leader was willing to allow additional confirmations—and even recess appointments—for a number of nominations.

I can tell you, having dealt with Senator REID, he bends over backward to be balanced in this approach. That is the way it has to be in the Senate. That is the way the institution operates. But the White House turned down his offer. They turned down his offer because of one nomination, the nomination of Steven Bradbury.

It was clear this request, Mr. Bradbury, was going to be rejected. Mr. Bradbury's nomination has been returned to the White House four times since he was first nominated for the job in June 2005. What part of ''no'' does the White House fail to understand?

Why does the President care so much about this one nominee that he is willing to sacrifice all these other nominees? He is going to fill the White

House with people who are going to have this fine White House china in front of them, sipping coffee and tea and eating little cookies and complaining that somehow or another the Democrats in the Senate are ignoring their need to serve our Government.

We are not ignoring it. Senator REID has offered repeatedly to confirm these nominees on a balanced basis, even giving the President 84 nominees without this balance. They have said: No deal unless we get Steven Bradbury. He is the only appointment, clearly, who is important to this administration. Why? What is it about this man? What would possibly be in his background or his potential for future service that would be so important?

Well, this is worth talking about for a minute. Steven Bradbury is the head of the Office of Legal Counsel, also known as OLC. OLC is a small office and most people have never heard of it, but it has a great deal of power, especially in this administration. The Office of Legal Counsel issues legal opinions that are binding on the executive branch of Government.

In the Bush administration, OLC has become a rubberstamp for torture policies that are inconsistent with American values and laws. In August of 2002, the Office of Legal Counsel issued the infamous torture memo. This memo sought to redefine torture, narrowing it to a limited situation of abuse that causes pain equivalent to organ failure or death. These words meant the United States was preparing to abandon generations of commitment to outlawing and prohibiting torture. This memo also concluded the President has the right to ignore the torture statute, which makes torture a crime. This memo was official Bush administration policy for years, until it was finally leaked to the media, and the administration was forced to repudiate it.

Jay Bybee, who was then the head of the Office of Legal Counsel, signed that memo. Unfortunately, Mr. Bybee was confirmed to a lifetime appointment on the Federal bench in the Ninth Circuit before Congress and the American people learned about his complicity in the creation of this infamous torture memo, a memo that was repudiated by the Bush administration once it became public.

Jack Goldsmith succeeded Jay Bybee as head of the Office of Legal Counsel. Mr. Goldsmith is a very conservative Republican, but even he was disturbed when he heard what was happening at the Office of Legal Counsel.

As head of that office, he revoked the misguided OLC opinions dealing with warrantless surveillance and torture. He decided those opinions went too far.

Deputy Attorney General Jim Comey supported Mr. Goldsmith's actions. Let me say a word about Mr. Comey. My colleague and friend for years, Senator SCHUMER, first told me about Jim Comey when he was chosen to be the Deputy Attorney General under Attorney General Ashcroft. Senator SCHUMER told me Jim Comey was a straight shooter, an honest man who would not compromise his principles in public service. He said I could trust Jim Comey. During the period Jim Comey served in our Government, CHUCK SCHUMER was right. Jim Comey enjoys that reputation because he earned it.

We now know what happened because it has come to light that there was an infamous showdown at the bedside of Attorney General John Ashcroft, who was hospitalized in an intensive care unit, where White House Chief of Staff Andrew Card and former Attorney General Alberto Gonzales tried to pressure a then-ailing John Ashcroft into overruling Jack Goldsmith and his acts in the Office of Legal Counsel. It is hard to imagine that they would go into a hospital wing, with the acting Attorney General and with the President's Chief of Staff, to a man in an intensive care unit and try to persuade him to sign a document to overrule Jack Goldsmith.

Fortunately, Attorney General John Ashcroft, to his credit, refused. When Jack Goldsmith finally left the Justice Department, the administration realized they did not need any more trouble from the Office of Legal Counsel, they needed someone in that office who would not rock the boat, would not question their opinions, someone who would rubberstamp their policies.

So, in June 2005, President Bush nominated Steven Bradbury to succeed Jack Goldsmith—Steven Bradbury, the person who has now become the centerpiece of the entire appointment agenda of the Bush administration. Although Mr. Bradbury has never been confirmed in this position, he has effectively been head of OLC for 2½ years.

In 2005, Mr. Bradbury reportedly signed two OLC legal opinions approving the legality of abusive interrogation techniques. One opinion, on so-called ''combined effects,'' authorized the CIA to use multiple abusive interrogation techniques in combination.

According to the New York Times, then-Attorney General Alberto Gonzales approved this opinion of Mr. Bradbury over the objections of then Deputy Attorney General Jim Comey, who said the Justice Department would be ashamed if the memo became public.

Mr. Bradbury also authored and Alberto Gonzales approved another Office of Legal Counsel opinion, concluding that abusive interrogation techniques, such as waterboarding, do not constitute cruel, inhumane or degrading treatment. This opinion was apparently designed to circumvent the McCain torture amendment. I was proud to cosponsor JOHN MCCAIN's torture amendment. We are in the midst of a Presidential campaign, and I suppose you have to be careful as a Democrat saying anything positive about a man who may be the Republican nominee.

But I could not think of another Senator who could speak with more authority on interrogation and torture than JOHN MCCAIN, who spent over 5 years in a Vietnam prison camp. He came to this floor and made an impassioned plea for us to make it clear that torture would not be part of American policy.

In the end, he won that amendment by a vote of 90 to 9, an amendment which absolutely prohibits cruel, inhumane or degrading treatment. Steven Bradbury, now infamous for his role in memo after memo relating to torture, felt he found a way, through an opinion, for the administration to avoid the impact of the law the President signed, the McCain torture amendment.

That is what this is about. This is not a casual situation where I find Mr. Bradbury personally offensive. We are going to the heart of a question as to whether this man can serve this country in this critical position in the White House based on what we have seen over and over again: his complicity in some of the most embarrassing chapters in this administration, including some that have been publicly repudiated.

Last fall, while the Senate was considering the nomination of Judge Michael Mukasey to be Attorney General, the judge pledged to me in writing that he would personally review all of the Office of Legal Counsel's opinions dealing with torture. He said he would determine whether each of these opinions can be provided to Congress and whether he agreed with the legal conclusions of each of these opinions. This promise made by Attorney General Mukasey to me, to the Judiciary Committee, and to the Senate is a matter of public record.

Last week, Attorney General Mukasey appeared before the same Judiciary Committee for the first time since he was confirmed. I asked him point-blank whether, as he had promised, he had reviewed all of the OLC torture opinions. I specifically asked him about Steven Bradbury's ''combined effects'' opinion, which Jim Comey said would shame the Justice Department if it became public. Sadly, the Attorney General said he had not reviewed those opinions. He realized that he had made a promise to me that he would, and we left it at that. He did acknowledge in the course of his testimony how much he respected Jim Comey, how he had turned to him for advice and believed he was an honorable man. I feel the same. I trust that Attorney General Mukasey is also an honorable man who will keep his word.

In the meantime, while all of this continues, Steven Bradbury remains as the effective head of the Office of Legal Counsel, even though it has been 2½ years since he was nominated and he has never been confirmed. Legislation known as the Vacancies Reform Act prohibits a nominee from serving for this long without confirmation. It makes a mockery of the confirmation process that Mr. Bradbury assumes a role he has never been given under the law. Apparently, he is so important to

the Bush administration, they are willing to violate this law to keep him in his position, and they are prepared to toss overboard scores of nominations which could be approved by this bipartisan Senate if they would only relent on this nominee, who is obviously not going to be approved. The fact that Mr. Bradbury continues to serve as the effective head of the Office of Legal Counsel appears to be an attempt to circumvent the confirmation process in order to install this controversial nominee in a key Justice Department post in the closing days of this administration.

Ironically, the Vacancies Reform Act to which I referred was passed by the Republican-controlled Congress in 1998 to limit the ability of then-President Clinton's nominees to continue to serve in an acting capacity. The legislation was specifically targeted at Bill Lann Lee, the first-ever Asian-American head of the Civil Rights Division. Apparently, the Bush administration is ignoring the very law which a Republican Congress passed to make it clear that the President does not have the authority to appoint people like Steven Bradbury in an acting capacity without confirmation.

Why has Mr. Bradbury not been confirmed? For years, the Justice Department has refused to provide Congress with copies of the opinions Mr. Bradbury authored on torture. Mr. Bradbury has refused to answer straightforward questions from myself and other members the Judiciary Committee regarding his role in this.

Here is what I said in November 2005 about Mr. Bradbury's nomination:

> Since the Justice Department refuses to provide us with OLC opinions on interrogation techniques, we do not know enough about where Mr. Bradbury stands on the issue of torture. What we do know is troubling. Mr. Bradbury refuses to repudiate un-American and inhumane tactics such as waterboarding.

As I have said before, I believe that at the end of the day, when the history is written of this era, there will be chapters that will not be friendly to this administration.

In past wars, Presidents of both political parties have been guilty of excessive conduct, in their own view, as part of national security. One can remember the suspension of habeas corpus by President Lincoln during the Civil War, the Alien and Sedition Act of World War I, and the Japanese internment camps of World War II. All of these examples, as we reflect on them in history, do not reflect well on this country. Decisions were made which many wish could be undone. The same is likely to be true when it comes to the issue of torture and the war on terrorism under the Bush administration; this issue of warrantless surveillance, where for years, literally, this administration went beyond the law and attempted to intercept communications when they could have come to Congress and received bipartisan support for an approach which would have kept America and our Constitution safe.

Yesterday, we learned why Steven Bradbury is so important to the White House. We also learned why he refuses to condemn waterboarding. It was Super Tuesday, so a lot of political minds were focused on other places and other things. Unfortunately, it didn't get a lot of attention, but every American should know what happened yesterday on Capitol Hill.

In testimony before the Senate Select Intelligence Committee, CIA Director Michael Hayden acknowledged that the United States of America has used waterboarding, a form of torture, on three detainees. Waterboarding, or simulated drowning, is a torture technique that has been used since at least the Spanish Inquisition. It has been used by repressive regimes around the world.

Every year, the State Department issues a report card on human rights in which we are critical of other countries that engage in what we consider to be basic violations of human rights. Included in those basic violations is torture of prisoners. Included in that torture is waterboarding. So once a year we stand in judgment of the world and condemn them for engaging in waterboarding and torture techniques on their prisoners. Yet it is clear from the testimony yesterday of General Hayden that we have engaged in some of those techniques.

Following World War II, the United States prosecuted Japanese military personnel as war criminals for waterboarding American servicemen. The Judge Advocate Generals, the highest ranking military lawyers in each of the U.S. military's four branches, have stated publicly and unequivocally that waterboarding is illegal.

Now the United States of America has acknowledged engaging in conduct that we once prosecuted as a war crime. This is unacceptable.

Yesterday, I sent the Attorney General a letter. I wanted to spell out clearly for him, so there is no misunderstanding, why it is important that he respond to several requests which I have made for information. At the heart of it is a good man, a judge named Mark Filip, who serves in the Northern District of Illinois, a man whom I supported for his confirmation as a Federal judge and who has received positive reviews for his service on the bench.

Attorney General Mukasey would like Judge Filip to be his Deputy Attorney General. That is a good choice. But I have said to the Attorney General, there is only one thing between my enthusiastic vote for Mark Filip and his remaining on the calendar: The Attorney General has to respond to inquiries I have made, some of which were made months ago, on this critical issue of torture. I wanted to make certain that there was real clarity in my request. So I sent a letter to the Attorney General yesterday and said: Here is exactly what I am looking for, the letters we have sent, the questions we have asked, and I want you to respond to them. I hope I receive that response by the end of the day. If I receive that response and it is a good-faith response, even if I disagree with it, if it is a good-faith response, then Judge Filip can move forward. I hope he will. It is now in the hands of Attorney General Mukasey.

Let me highlight two of the questions I am asking: First, does Attorney General Mukasey agree with the legal conclusions of the Office of Legal Counsel torture memos written by Steven Bradbury, that Jim Comey believes the Justice Department would be ashamed of if they were made public? Second, will the Justice Department investigate the administration's use of waterboarding to determine whether any laws were violated? I didn't call for prosecution but simply for an honest investigation.

I recognize the Bush administration wants to confirm Steven Bradbury, to ensure they have a firewall to protect their torture policies. But what is at stake here is more important than this one nominee. This is about who we are as a country. This is about the United States, our values, our standards of conduct. This is about whether the United States can, with a straight face, be critical of regimes and countries around the world that engage in abusive interrogation techniques. This is about whether we protect American soldiers and American citizens from torture by unequivocally condemning those forms of interrogation. The United States cannot be a country that defends a practice which the civilized world has considered torture for over five centuries.

Democrats are willing to work with the President, in a bipartisan manner, to confirm nominations. But the President's response to the majority leader's work in confirming more than 80 nominations in December by renominating Steven Bradbury last month is not encouraging. If the President truly wants to confirm his nominations, he should not be pouring coffee and tea at the White House.

He ought to have his Chief of Staff, Mr. Bolten, pick up the phone and say: Let's get down to business. There are important Democrats and Republicans who can be appointed tomorrow if the President will understand that the entire fate and future of his administration should not hang on this one nominee, Steven Bradbury, who has been implicated in some of the most questionable practices of this administration. I hope the President and his Chief of Staff, after they have had their coffee with these potential nominees, will pick up the phone and work with us for the right result.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to share some thoughts on the FISA legislation. It is critically important, and we need to pass the Intelligence Committee bill.

I will first say, in response to my able colleague from Illinois, that General Hayden's comments in which he indicated three people had been subjected to waterboard torture are something we ought to think about. First, I am glad, as he said and has been repeated, waterboarding was only used three times early on after 9/11 against some of the most dangerous people we have ever dealt with.

As a result of the debate and discussion about that, we had an amendment on the floor of the Senate, which Senator KENNEDY offered to the Military Commissions Act in 2006, to prohibit waterboarding. It failed 46 to 53. We have a statute that does prohibit torture—Congress passed it overwhelmingly and it was supported by Senators KENNEDY, LEAHY, BIDEN, and others—that defined torture as infliction of severe physical or mental pain or suffering. I am glad we are no longer utilizing waterboarding. I hope we never have to do it again.

I just want to say to my colleagues, be careful how you portray the United States around the world.

Mr. Goldsmith, who has been quoted here and previously testified before our committee, has written a book. He said this war on terror has been the most lawyered war in the history of the Republic. Lawyers have been involved in everything. Great care has been given to ensure the law was followed. To compare waterboarding of 3 individuals to what was done to American prisoners by the Japanese in World War II is just unthinkable. To date, not a single prisoner whom we have captured in the War on Terror has died, to my knowledge, in American custody—maybe or one or two from some disease, but certainly not from abuse.

I just finished reading the book ''Hells Guest'' by Mr. Glenn Frazier from Alabama, a Bataan Death March survivor. About 90 percent of those prisoners died. They starved to death. They were beaten on a regular basis and abused in the most horrible way.

To even compare what was done to American soldiers wearing a uniform lawfully being a combatant to what has been done to a few people without any physical or permanent injuries is not fair. It is part of a rhetoric designed for political consumption at home that has embarrassed our country around the world and led decent people around the world to believe our military is out of control and we are systematically abusing and torturing prisoners when it is not so. We ought to be ashamed of ourselves to go on again and again about it.

We continue to be confused. Our country faces very real dangers. Terrorists are determined to damage this country. It is not just talk. We know it is true. They have done it before. They have attacked us around the world. They attacked us repeatedly before 9/11, and they desire to destroy our country.

Our administration made a decision after 9/11 that we could not treat these kinds of military attacks, designed to destroy our country by organized foreign forces, as normal law enforcement. I was a former Federal prosecutor. In a criminal prosecution, you try to catch people after they have committed the crime. But these acts are so horrible that the nature of them is such that they are acts of warfare and not crimes, and they need to be treated in that fashion. We remain somewhat confused about it. So the old policy meant you would investigate after the crime was committed. It was basically a stated or implicit policy of the Clinton administration. We cannot return to that kind of strategy.

One of the most important legal powers and authorities we have to defend America is the Foreign Intelligence Surveillance Act. It has played a key role in preventing subsequent attacks on U.S. soil for the last 6 years. We are dealing with very real, very imminent threats, and we must continue to assist the fabulous military and intelligence personnel who are working this very moment long hours to protect our Nation.

I have visited our National Security Agency and met with the people who gather the intelligence under this act. They love America. These are not people who are trying to harm our country and deny us our liberties. They are sterling individuals who carefully follow the rules we give them. They follow the rules. They say they cannot continue effectively to do their job unless we pass this legislation. They cannot continue to do what they need to do.

The terrorists waging war against our country do not fight according to the rules of warfare, international law, moral standards, or basic humanity. They have even, in recent days, apparently used mentally ill women as suicide bombers, setting off bombs that have resulted in the deaths of other people, as well as the poor people who had the bombs strapped to them.

So, historically, we have provided the protections of the Geneva Conventions only to those whose conduct falls within the rules of war, those who fight under a flag of a nation, who wear uniforms against other organized military units. However, under a twisted rationale, predicated on the belief by some that we are not fighting a real war, we have given more rights to these individuals, who flatly reject any rule of war, than we have provided to legitimate prisoners of war who have followed the rules of war. We have done that in a number of different instances—it is sort of amazing to me—including providing them with habeas corpus relief to go to Federal court. These are not traditional prisoners of war, but prisoners who are unlawful enemy combatants. So we have endangered, sometimes I really believe, not only our troops, who put themselves in harm's way—and are in harm's way right now—to carry out the policies we gave them, but innocent Americans here at home.

We have to keep this threat in the forefront of our minds. These are individuals dead set on the destruction of our country at any cost. There is nothing they will not do.

Let me state that the FISA law should be made permanent. It should not merely be extended with another sunset provision. It is a fallacious argument to claim we cannot revisit a law unless there is some sunset when it ends. As Members of this Congress, it is incumbent upon us to continually review legislation we pass to ensure that the laws are accomplishing the goals set forth and that no unintended consequences occur. There is no sound reason to pass critical legislation such as the Protect America Act and slap an expiration date on it.

Fighting the war on terror is a long-term enterprise that requires long-term institutional changes. As the Vice President said in a recent speech:

> The challenge to the country has not expired over the last six months. It won't expire any time soon, and we should not write laws that pretend otherwise.

The Intelligence Committee bill is a collaborative, bipartisan compromise that was crafted in consultation with members of the Intelligence Committee, the Director of National Intelligence, the Department of Justice, and the intelligence community after months of negotiation and review of highly sensitive information, most of which was classified, secret, about the current surveillance procedures and how they were being used by the Government to obtain critical national security information. We cannot overstress that the committee most intimately involved with this process and the electronic measures being utilized voted their bill out by an overwhelmingly bipartisan 13-to-2 vote.

Remember, it has been over 6 years 4 months since the terrible attacks of September 11, and we may be most thankful that not one attack has been carried out on our soil since that day. As we move further from that dreadful day, I fear our memories have begun to fade. Otherwise, there is no sound justification for doing anything other than reauthorizing the Protect America Act, which would allow the intelligence community to simply continue, uninterrupted, their work which has been protecting this Nation and can continue to protect it in the future.

After the intelligence Committee passed a bill, the Senate Judiciary Committee, of which I am a member, got involved and produced a partisan bill. We already voted to table the partisan Judiciary substitute, and we debating the bipartisan Intelligence Committee bill. Let me point out, however, something that happened in the Judiciary Committee. The bill produced by

the committee was given very little process during one committee meeting where 10 Democratic amendments were accepted along a strict party-line vote, and the bill itself, ultimately, was voted out with only Democratic support. No Republican voted for it. It was a purely partisan bill.

Strikingly, the one vote that garnered bipartisan consideration was against an amendment that was offered by Senator FEINGOLD to strip the retroactive liability protections found in section 2 of the Intelligence bill.

We had a discussion and vote on whether the liability protections to keep the companies that helped us and responded to Government requests—whether they should be sued for doing so—should be stripped from the bill. We voted in the Judiciary Committee, 12 to 7, to follow the recommendation of the Intelligence Committee bill that they passed 13 to 2, and keep the limited liability protections. So it was a 12-to-7 vote to defeat the Feingold amendment that would have removed those liability protections.

Directly after that vote, however—it was curious how it all happened—but directly after that vote, Chairman LEAHY moved to report only Title I of the Judiciary substitute bill out of Committee. When that passed, that effectively stripped the liability protection provisions the committee had just voted to keep.

The point is that the Democratic-controlled Judiciary Committee, when voting directly on removing retroactive liability, voted 12 to 7 to keep it. But by the time we passed out the Judiciary Committee's version of the bill, we had taken it out. I'm not sure people fully understand how that occurred, but it certainly was an odd thing that it passed out of committee without liability protection, when we specifically voted to keep that language in the overall bill.

Now, the main area of disagreement is over this important question that will be coming up, I understand, in the amendment offered by Senator DODD, amendment No. 3907—and a Specter-Whitehouse amendment that will allow substitution—which will, in effect, allow litigation to continue against telecom companies that responded to the requests of the Attorney General of the United States, certified by the President. So our disagreement is whether we should provide these good corporate citizens who cooperated with a formal written request by the Attorney General of the United States, certified by the duly-elected President of the United States, to provide information for a surveillance program implemented shortly after the attacks on September 11—and at that point in time, we did not know how many terrorist cells there were in the country and what plans they may have had.

Now, the nature of the program is highly classified, but after an uproar of complaints, the procedures were studied carefully by Congress, and we reacted by giving approval to the program in passing the Protect America Act overwhelmingly last August. I did not want to be too lighthearted about it, but I remember all the brouhaha that this program was somehow wrong and had to be eliminated, and people made all these unsubstantiated allegations. But after we went in great depth, we found, as Mr. Goldsmith said, that the lawyers have been on top of this since day one. It was a carefully constructed program. A court opinion issues last spring caused us to not be able to continue the way it was being done, and the Intelligence community asked us for legislation so it could continue. The Congress passed the Protect America Act this summer, but it was a short-term bill that lasted only 6 months.

All I would want to say is, nobody apologized to President Bush or the Attorney General of the United States or the people at the National Security Agency for all the bad things they said about them. After having studied what they did, we concluded it is constitutional and legal and proper and necessary, and we actually passed a law to authorize it to continue.

But still, there have been over 30 lawsuits now filed against telecom providers for their alleged participation in the terrorist surveillance program—30 lawsuits. Analysis of these lawsuits leads only to the conclusion that the plaintiffs are substituting speculation and a fevered brow for fact and are ignoring the dangerous consequences these lawsuits can have on our national security.

I do not know who is actually filing these lawsuits. I will just say this, parenthetically: Last October, before the last election, Lancet magazine produced a report—a medical magazine in England—that said 500,000 to 700,000 Iraqis were killed by the American military in Iraq. And ABC, CBS, and our Democratic colleagues all raised cane that, unbelievably, we would kill this many people. After the election was over—and by the way, the guy who wrote the report said he wanted to be sure it came out before the election—we learned some things about it.

In a fabulous article in the National Journal, an unbiased magazine, they detailed the fraudulence of that article, and pointed out that even an antiwar group said, at most, it was 50,000, not 500,000 or 700,000. And where did they find out the money for the Lancet article came from? George Soros, and the MoveOn.Org crowd. The ''blame America first'' crowd. Well, I don't know who is actually funding these lawsuits. We ought to ask some questions about it. Certainly there is no indication that anybody's liberties have been impacted adversely.

If these suits are allowed to continue, we face a number of problems. The sources and methods relied on by our intelligence community to conduct surveillance are highly classified, and if these lawsuits are allowed to proceed, even allowing for the Government to be substituted for the telecom companies, we run the risk of exposing the things our enemies really want: classified national security information. Make no mistake, if forced to defend themselves against lawsuits brought about because they cooperated with a government request certified to be legal, companies will certainly hesitate or refuse outright to cooperate in the future. Even where substitution by the Government is an option, we would be putting national security decisions in the hands of corporate counsels in the future whose duties—and their first responsibilities—extend to the stockholders of their company, and not the national security.

If we ask a company to help us, do we want all the lawyers in that company to say: Wait a minute. The last time we worked with you government we got sued, and we are going to review all of this because some court may hold this—or George Soros may fund some lawsuit and tie us up in court. We don't think we want to help. I think they would naturally take that tack in the future to resist cooperation.

During floor debate in December, the distinguished chairman of the Intelligence Committee, our Democratic colleague Senator ROCKEFELLER, said this. This is what he said about the matter:

> Our collective judgment—

and he is talking about the Intel Committee members—

> Our collective judgment on the Intelligence Committee is that the burden of the debate about the President's authority should not fall on the telecommunications companies—

In other words, the debate about whether the President had authority to do this shouldn't fall on the telecommunications counsels—

> because they responded to the representations by Government officials at the highest levels that the program had been authorized by the President and determined to be lawful and received requests, compulsions to carry it out. Companies participated at great risk of exposure and financial ruin for one reason, and one reason only: in order to help identify terrorists and prevent follow-on terrorist attacks. They should not be penalized for their willingness to heed the call during a time of national emergency.

Senator ROCKEFELLER said that.

The ranking member of the Judiciary Committee who favors substitution has stated this, flat out:

> The telephone companies have acted as good citizens.

Certainly they have. In many instances, the Government must seek assistance from the private sector and private individuals to help protect our national security and even local security in our communities. In order for this practice to continue, we must allow them to rely on assurances that the assistance they provide is not only legal but essential to protect our national security without fear that they will have their names dragged through

the mud by protracted litigation initiated by the ''blame America first'' crowd which subscribes to wild theories about Government conspiracies to deny people their liberty. They are forgetting the safety of America, and they are ignoring sound legal precedent.

Some in this body sincerely believe that liability protection is not needed if these companies did nothing wrong, they say. Well, this is faulty reasoning since either allowing the lawsuits to proceed or substituting the Government will still force them to be a party to lawsuits that run the risk of exposing national security information or doing irreversible financial and reputational damage to companies innocent of any wrongdoing. We are putting these companies in harm's way when they, bound by a sense of patriotism and civic responsibility, participate in a government program that was certified to be legal by the Attorney General of the United States and the President of the United States.

If the Government is substituted—in accordance with one of the theories that has been offered—in the place of a particular company, it will most certainly assert the state secrets privilege, leaving, in effect, the company virtually impotent when it comes to mounting a defense and showing what their legitimate actions were. Due to the nature of this state secrets privilege, a company will be forbidden from making their case and will be left without the ability to even confirm or deny their participation in the program. We should applaud the actions of these citizens, not stab them in the back by suing them for their actions.

To refresh everyone's memory, the Intelligence Committee, after months of negotiation in highly classified settings, rejected an amendment to strip liability protection from the bill for these companies by a vote of 12 to 3. It then passed the bill out in toto by a bipartisan vote of 13 to 2, protecting these companies from lawsuits.

The Judiciary Committee, on the other hand, had one markup after less than 2 weeks of reviewing the Intelligence Committee's legislation, and rejected an amendment specifically that would have denied liability protection by a vote of 12 to 7. So we voted not to allow them to be sued either. Furthermore, the Judiciary Committee rejected an amendment to allow the Government to be substituted for the plaintiffs by a vote of 13 to 5. We rejected substitution too, although the liability protections were ultimately removed from the bill the Judiciary Committee passed.

Even if the Government is substituted, plaintiffs in litigation will seek discovery, they will file depositions and ask for interrogatories and motions to produce. They will seek trade secrets and highly classified technologies. Companies would still face many litigation burdens. They would be—we would be subjecting them to harm, not only from consumer backlash, but their international business partners will be pressured around the world.

Under the limited liability protections incorporated in the Intel bill, plaintiffs seeking to question the Government will have their day in court as it only protects good corporate citizens from civil suit. So the liability protections in this bill do not preclude lawsuits against the Federal Government from going forward. In fact, there are at least seven lawsuits currently pending against the Government that will proceed against the Government or Government officials. This was accepted by the Intelligence Committee. Some wanted to say you couldn't sue the Government for these activities also, but the Intel Committee reached an agreement, an overwhelmingly bipartisan agreement, that would allow those lawsuits to proceed.

The companies that helped the Government did so to help protect us from further attack, and valuable information has been gathered with their help. I have been out to the National Security Agency. I have talked with the people. I know they scrupulously follow the rules we give them, and I know they have gained great, valuable information through this program, and I know they lost very valuable information when the program had to be stopped. This information has saved undoubtedly countless American lives by enabling our intelligence community to thwart attacks.

Some have said this amounts to amnesty, but that couldn't be further from the truth. Amnesty is an act of forgiveness for criminal offenses, such as granting citizenship to people who broke the law to come into our country illegally. The companies were operating under a certification of legality in a time of national danger doing what they could as Americans to follow the law and prevent future attacks. At no point during their participation were their actions illegal. For Heaven's sake. To grant liability protection is to adhere to that great Anglo-American legal tradition for hundreds of years that when called upon by a law officer, with apparent legal authority, wearing a uniform, out on the street, a citizen is not to be held legally liable if, in responding to the officer, the officer was wrong. That is all we are talking about. That is a fundamental, historical, legal principle. The only question—the legal question has always been simply this: whether the citizen was responding to a legitimate request by a government law officer, a police officer to chase a bad guy. Was the citizen acting reasonably in believing this was a legitimate law enforcement request and he was helping by being a good citizen. That is the test. If he participated knowingly with somebody acting illegally, then that citizen could be liable. Certainly certification by the Attorney General and the President of the United States in written documents suffices as a legitimate request.

The bottom line is, we do not need to pass legislation that panders to the extreme interest groups in America who find fault in everything our people do, our law enforcement and intelligence officers, and that fosters a fundamental mistrust of those officials who are working daily to serve all of us. The burden should not fall on the shoulders of good corporate citizens who are acting patriotically to help save lives and protect our country.

I urge my colleagues to vote to support the Intel Committee bill, a carefully crafted, carefully studied, bipartisan bill. I also urge my colleagues to support the liability protections in the Intelligence Committee legislation and a vote against any amendments that attempt to strip these provisions or in any way alter the carefully structured, limited provisions of the bill.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise today to discuss Senate amendment No. 3907 offered by Senators DODD and FEINGOLD to the Intelligence Committee's FISA legislation. I compliment my friend from Alabama for some very strong, very pointed remarks on this issue as well as the other issues he addressed.

I am pleased the leaders of the Intelligence Committee were able to come up with an agreement on how to proceed on this important legislation. I look forward to the debate on many of these amendments.

A couple of the amendments have been offered relating to title II of the bill which provides immunity to those telecommunication carriers that currently face lawsuits for their alleged assistance to the Government after September 11 and their participation in what is known as the terrorist surveillance program, or TSP. Senators DODD and FEINGOLD have offered an amendment striking this section. Senators SPECTER and WHITEHOUSE have offered an amendment which would substitute the Government as a defendant for the telecommunication providers currently being sued for their alleged support to the President's TSP program. I do not support either of these amendments.

As a member of the Select Committee on Intelligence, I had access to classified documents, intelligence, and legal memoranda, and heard testimony related to the President's TSP program. After careful review, as stated in the committee report accompanying this legislation, the committee determined:

> That electronic communication service providers acted on a good faith belief that the President's program, and their assistance, was lawful.

The committee reviewed the correspondence sent to the electronic communications service providers stating that the activities requested were authorized by the President and determined by the Attorney General to be

lawful, with the exception of one letter covering a period of less than 60 days in which the counsel to the President certified the program's lawfulness. The committee concluded that granting liability relief to the telecommunications providers was not only warranted but required to maintain the regular assistance our intelligence and law enforcement professionals seek from them.

Although I believe the President's program was lawful and necessary, this bill makes no such determination. This is not a review or commentary on the President's program; rather, it is a statement about how important this assistance by the electronic communication providers is to our Government.

I cannot understate the importance of this assistance—not only for intelligence purposes but for law enforcement purposes also. The Director of National Intelligence and the Attorney General stated:

> Extending liability protection to such companies is imperative; failure to do so could limit future cooperation by such companies and put critical intelligence operations at risk. Moreover, litigation against companies believed to have assisted the Government risks the disclosure of highly classified information regarding extremely sensitive intelligence sources and methods.

There is too much at stake for us to strike title II and substitution is not an acceptable alternative. This week, we have been alternating between legislation geared to helping our taxpayers and FISA. Yet substituting the Government in these lawsuits will force the American taxpayer to front the heavy legal bills associated with this legislation.

Substitution would allow these trials to continue and could risk exposure of classified sources and methods through the discovery process in the litigation. As a defendant in these frivolous lawsuits, the Government may be required to expose some of our most sensitive intelligence sources and methods. Let me emphasize the committee already found that these communication providers acted in good faith under assertions from the highest levels of our Government that the program was lawful. If an individual alleges he or she has a claim due to this program, that claim can be brought against the Government and should not be brought against the providers. The Intelligence Committee bill left open the option for Americans to sue the Government. An aggrieved individual may sue the Government and attempt to prove standing and a cause of action. However, substituting the Government doesn't shield our American business partners from these cases, nor does it relieve them of the liability to their stockholders they may unjustly face and which may be borne out in our economy. Substitution only increases the risk of leaks, and these potential revelations only make our enemies better informed on the tools we have to conduct electronic surveillance.

Some of my colleagues have complained about access to the documents regarding the President's program. It is true many Members of Congress have not had access, nor have they had an opportunity to review these documents. There is a good reason for that. These documents are highly classified and represent details about intelligence sources and methods. I worry that expanding the number of people who have access to these documents will increase the likelihood that intelligence will get leaked into the public. It is more appropriate that the oversight committee review and report back to the Senate on the various intelligence activities of the United States. That is why the Senate has an Intelligence Committee. As a member, I am familiar with handling classified material and receiving classified briefings. I have made commitments to safeguard the information I learn behind closed doors within the Intelligence Committee. Given the wide array of information I have heard on the Intelligence Committee, I question the benefits a Member would gain from such a limited, yet specific, review of the operations of our intelligence community. Rather, I urge my colleagues to support the determination of the Intelligence Committee, which is charged with regularly reviewing the intelligence activities of the United States and oppose the amendments offered by Senator DODD and Senator FEINGOLD. Providing our telecommunications carriers with liability relief is the necessary and responsible action for Congress to take. The Government often needs assistance from the private sector in order to protect our national security and, in return, they should be able to rely on the Government's assurances that the assistance they provide is lawful and necessary for our national security. As a result of this assistance, America's telecommunications carriers should not be subjected to costly legal battles.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, I ask unanimous consent that I be allowed to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ECONOMIC STIMULUS

Mr. ISAKSON. Mr. President, we are on a very important piece of legislation, and I thank Senator BOND for all his hard work, and other members of the Intelligence Committee. I hope we can very soon pass a good FISA bill on the floor.

I want to deviate from that debate for a second to talk about a headline many of my colleagues read yesterday, and that we are all reading repeatedly around the United States, and that is the rapid increase in the number of houses going into foreclosure. I want to address that in the context of the economic stimulus package and in the context of a possible recessionary tendency in the economy, and also from a historical perspective, in that we have been down this road before, and suggest there is an action the Senate and the Congress could take, and the White House could endorse, that could avoid an awful lot of foreclosures, improve the housing market, reverse the tendencies toward recession, and be a private sector solution to a problem that is going to be a tremendous burden if we don't act.

I understand the short-term surgical benefits of the stimulus that was passed by the House, the other benefits that the Finance Committee passed. We will work ourselves through that in the next few weeks, and shortly thereafter the American people will more than likely be receiving a check of $300 or more with which to infuse some energy into the economy. But while that is going on, these numbers of a 200-percent and 300-percent increase of houses going into foreclosures are going to materialize into houses in foreclosure.

When we get into the second quarter of this year and the middle of the summer, we are going to find ourselves in a difficult situation where the following has happened: a tremendous number of houses foreclosed on, the banks and lenders taking back inventory—and there is a term called REO, real estate owned—and the regulators coming in, looking at their books and telling them to get rid of that inventory. The lenders are going to then write them down, take them to the marketplace with deep discounts, and sell them.

Now what that is going to do to your homeowners Jim Weichert sells to in New Jersey, mine in Georgia Harry Norman sells to, and those from all around the country, is those people who are in houses making payments and they are in good shape, their value is going to plummet because of the number of foreclosures that is flooding the market. What happens is the equity, the difference between their existing mortgage and the value of the house, decreases because the value of the house goes down. If they are like 87 percent of the American people who have an equity line of credit, where they use the equity in their house as a line of credit, if you will, their available credit is going to be squeezed.

You know what is going to happen then? They are going to stop spending. When that happens, we will have the full pressure of the economy in a downward spiral, and it begins to feed upon itself. That is precisely what happened in 1975.

In 1973 and early 1974, there was a great housing boom in the United States, like we have had over most of

the last decade. And like what happened over most of the last decade with subprime loans and underwriting, back in 1974, money got awfully loose. Banks made loans with very little underwriting criteria, and we had a plethora of new homes built all over the United States by newfound homebuilders who had a hammer, a pickup truck, and easy credit. We found ourselves at the beginning of 1975 with a 3-year supply of vacant housing on the market in the United States. A viable real estate market is a 6-month supply. So you had six times the volume of houses that would be considered a balanced market, and we went into a deep recessionary spiral.

A Democratic Congress and a Republican President passed a $6,000 tax credit available to any family who purchased a standing vacant house in inventory, and that allowed them to collect that credit over 3 years—the 3 succeeding tax years after the year of their purchase. The only thing they had to do, other than qualify for their loan, and qualify under good qualifying standards, is they had to occupy the home as their residence. In a 1-year period of time, we absorbed a 2-year supply of housing and returned the housing market to balance and the economy stabilized. Although we had the impacts of the oil embargo, which was causing problems with inflation, the economy returned to a relatively stable time period.

I, along with a number of Members of the Senate, have introduced legislation—Senate bill 2566—which takes that model from 1975 and applies it to our problem in 2008. What it very simply does is, it offers a tax credit of $15,000 for the purchase of any house that falls in the following category: a new house permitted before September 1 of last year that is standing and vacant; a house owned by a lender that was foreclosed on in the last 12 months from an owner occupant; and any house pending foreclosure owned by an owner occupant who is willing to sell. That is where all this inventory that is beginning to flood our market comes from. The tax credit would be available if the purchase was made between March 1 of this year and February 28 of next year. So there is a 1-year window to incentivize those who may be reluctant to go in the marketplace to do so.

The Joint Tax Committee has scored this, and guess what the score is—$9.1 billion over 5 years. Put that in the context of the stimulus package that is before us of $150 billion to $160 billion. It is a relatively small inducement to provide a private sector solution to what is about to become a huge burden to the taxpayers of the United States and this Government.

I come to the floor at this time in hopes that some of our colleagues who have not found an interest in this legislation yet will take a look at it. As the author, it is not original thought. I happened to have been a real estate broker in 1975 trying to hang on and make a living to educate my three children, and I saw my Government come to the rescue of the housing economy through energizing people to go in and purchase houses that were in trouble, rather than bail them out somewhere down the line, and it worked. The cost to the Government was infinitesimal, yet the benefit to the public was astronomical.

I hope, as we finish talking about a surgical, strategic, short-term stimulus to get the consumer buying, which is what we are talking about in terms of either the Senate Finance Committee bill or the House bill, we take a look at what is coming. Because, believe me, in July of this year, if we do nothing, we are going to be dealing with a housing supply in this country bigger than it has ever been, with vacant houses by the thousands in neighborhoods, declining values on the value of housing, and people who are in good shape are not going to be able to either have their equity line of credit work or be able to move their house in the marketplace because of the tremendous inventory available.

History is a great teacher both in terms of things you should never repeat but also in terms of things that work and you should repeat again. I would submit the tax credit to qualified individuals to purchase and occupy a troubled house in this economy is an incentive that worked not only for the betterment of the market but for the betterment of our economy and in the best interest of the United States. Senate bill 2566 is an opportunity for us to join together to do something good and right for the American people.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STIMULUS

Mr. REED. Mr. President, across the Nation, millions of Americans are struggling to make ends meet as our economy has slowed dramatically. In December, I spoke on this floor about how President Bush has presided over a period of divided prosperity in the United States, where a privileged few have done remarkably well but the rest of us have been trying to get by. For most working people, the trademark of the Bush administration and their economy is wage stagnation. Indeed, in my home State, real median wages have not increased since 2000.

Rhode Islanders are coping not only with flat wages but increasing prices in critical commodities they must consume. Energy, education, and health care have all gone up. In January, in Rhode Island, gas was $3.11 cents a gallon; heating oil costs in the Northeast are projected to be at least $2,000 this year, which is about a $400 increase from last year. These price increases would be difficult to manage even in good times, but again paychecks for most working families have not kept up. In fact, they have been flat.

With prices accelerating, wages flat, and a huge gap in the capacity of middle-income working Americans to keep up and try to get ahead, the subprime crisis is real. This housing crisis is having huge and devastating effects. Two years ago, most of our constituents, the vast majority of them, were sitting around the table thinking: Well, when my daughter is ready to go to college in 2008, we will go ahead and borrow from the house to provide the extra income she will need to go ahead and make it through college. A lot of those families now are recognizing they can't do that. They are more concerned about a health care incident, because, unlike a few months ago, there is no reservoir in the value of their house to cushion the blow of unexpected expenses.

So this housing crisis, together with this wage stagnation, together with increased prices for energy and health care and education, and so many other things, is putting middle-class Americans in a vise and squeezing them.

We have to do much better. The Joint Economic Committee and others have estimated some of the costs already in terms of this mortgage-related foreclosure crisis. In my home State, they think $670 million will be lost to the family incomes of Rhode Island from 2007 through the end of 2009.

These economic conditions are being felt across the country. They are not localized warnings. The weakness in housing has spread to all parts of our Nation and across our economy. Growth in the fourth quarter of last year was .6 percent compared to a 4.9-percent increase in the third quarter.

We are slowing down, moving into a recession. Yesterday the market, Wall Street, went down over 300 points, largely due to a very weak report of a survey on the service sector. We have known for many months now that the manufacturing economy was having difficult times, but the service sector was holding up a bit.

Yesterday, there was a chilling indication the service sector has also contracted. The market took the news very badly. The market also took the news very badly a few days ago, when we showed a loss of 17,000 jobs, the first time we have actually lost jobs in more than 4 years.

Again, the administration's performance in terms of creating jobs has been less than stellar, barely keeping up with the new entrants into the labor market on a monthly basis. Now, for the first time in more than 4 years, we have lost jobs.

Furthermore, the average length of unemployment is increasing from 16.6 weeks in December to 17.5 weeks in January. More people are losing jobs and it is harder to find a new job.

Yesterday, the Federal Reserve released a survey of senior bank loan officers who indicated that the credit

crunch is spreading from consumer loans into the commercial and industrial loan sectors and that foreign banks are tightening their lending terms, in fact, even more so than some U.S. financial institutions.

Taken together, it clearly shows Wall Street is going into what one analyst called a recession panic mode and many economists are seeing signs that weaknesses in our economy are spreading internationally. In fact, one investment banker today, in a speech reported on the Internet, suggested that in the credit markets fear has overtaken greed, creating a situation of near panic in many respects.

So there is no doubt we have to act quickly on this stimulus package, not only to inject needed spending power into the economy to try to revive our consumer sector but also to signal to the American public we will act decisively to try to moderate, if not head off, the effects of a pending recession.

We have, I think, a lot to be grateful for in the work of Senator BAUCUS and Majority Leader REID and Senator GRASSLEY in terms of taking a House proposal and increasing it with important provisions, such as expanding the eligibility criteria for income tax rebates, including 20 million seniors and 250,000 disabled veterans.

The package we are considering also includes $10 billion for a temporary extension of unemployment insurance and $1 billion of emergency funding for the Low-Income Home Energy Assistance Program, the LIHEAP program. Both of these initiatives are targeted to families, seniors and low-income households, and they would help jumpstart the economy.

Economists agree these programs among others are a good use of taxpayer money. Last week before the Budget Committee, Alan Blinder from Princeton University and Mark Zandi of Moody's Economy.com both recommended that unemployment insurance and LIHEAP be included in the stimulus package. They also included other elements, but at least these elements are part of the list they feel will provide a bang for the bucks we are going to invest in the economy.

They meet the three T test—timely, targeted, and temporary.

Now, Friday's disappointing jobs report showed that the ranks of the unemployed are unfortunately growing. Nonfarm payrolls actually decreased, as I said, by 17,000 workers last month. In fact, even President Bush acknowledged ''troubling signs in the economy.''

So given these facts, I was surprised to hear Treasury Secretary Paulson say yesterday, in testimony before the Finance Committee, that he does not support including unemployment benefits in the stimulus package because national unemployment is only 4.9 percent, which is not historically high.

What we want to do is take preemptive action to prevent the situation from further deterioration. We want to move now so we do not see unemployment rates climb, so we do not see the duration of unemployment continue to grow, so that we give Americans a real chance to get back to work; and if they are not back to work, then at least we provide something to sustain them in these difficult moments.

In Rhode Island, my home State, we have reached a very high unemployment rate, 5.5 percent. Many other States are creeping up there too. We should, I think, move quickly, move decisively and support the Senate Finance package.

We are also beginning to see that unemployment insurance provides a very good return on the investment. Mark Zandi, the economist I mentioned before, indicated that for every dollar the Government spends on unemployment insurance, it adds $1.64 to the national GDP. In other words, it leverages the investments we are making.

So contrary to what some have talked about as excessive spending, this is exactly the targeted, temporary, timely spending that will accelerate, not decelerate, the economy.

The stimulative effects of unemployment insurance will get more money into the hands of people who will spend it right away in their local communities, which is generally the whole purpose of our stimulus approach.

Moreover, providing these benefits to these individuals will give them not just some dollars but a sense, I hope, of hope, that their Government is responding to their concerns and that we will respond in the future, if necessary.

Making the long-term unemployed eligible for a temporary extension of an additional 13 weeks at this time also makes good sense and is the right thing to do. Two weeks ago, I wrote a letter to the majority and Republican leaders asking that they include unemployment insurance in the stimulus package, and 26 other Senators joined me.

Senators DURBIN and KENNEDY have long led the fight on this issue. I commend them for their efforts. I hope unemployment insurance is part of the final package we are able to vote out of this body.

Now, there is another aspect of the package we will consider later today, I hope; that is the LIHEAP support. We have seen a huge increase in energy costs. On average, Americans are spending about 11 percent more to heat their homes this winter. For Rhode Islanders who rely on heating oil, that is about 39 percent higher than last year in terms of their heating oil expenses.

We know that the timely, targeted, and temporary aspects of stimulus have to be met. LIHEAP will do this. It is timely because it will be delivered very quickly. We have a delivery mechanism in place. It is also something that will fund families, low-income families, who desperately need this money.

I do not have to belabor the point that today, around the kitchen table, people are figuring things out. They are thinking, first of all, they probably need to take off sending their first born or their second or third child to the expensive school; that may be off the table for a few years. But they are also talking very basically about which bills to pay this month? Do we pay our mortgage? Do we pay the energy bill? Do we pay the credit cards which we are using to buy food at the supermarket these days?

I mean, these are the debates American families are having. They are not talking in terms that we are here, such as what is the best macroeconomic policy or how we can delay these expenditures, they are talking in terms of a real crisis in the family. We have to respond. One way we can respond quite clearly is with this LIHEAP money because that will go to one of their major concerns: How do we keep the heat on in the Northeast for the next several weeks and month; and in the Southwest, in anticipation of the grueling temperatures down there in the summertime, too. This additional money will provide an advance payment on cooling problems in the Southeast and the South, parts of the country that will soon encounter warm temperatures, not cold temperatures, which cause their energy costs to rise.

Again, these are the households who need LIHEAP. And so we know we have a program that works in LIHEAP. If we can deliver additional resources, it will get to the families who need it, particularly seniors, it will get out immediately. It will add to the stimulus effect because as the economists—both Mr. Blinder and Mr. Zandi—pointed out, it will leverage our investment in the economy.

So with the escalating costs for energy I would urge my colleagues that we go ahead and accept this amendment, particularly the funds for LIHEAP. I urge us all to support the Senate Finance Committee package, a package that provides for greater coverage to seniors and disabled American veterans and also provides unemployment insurance for those who desperately need it and heating assistance for, again, the families who desperately need it.

I hope that today, not only good sense, good economic sense, but a sense of our obligations to the most vulnerable in this country will persuade us to support this package strongly.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to speak for up to 10 minutes and then for Senator CRAPO to have up to 10 amendments to speak on the FISA bill.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, reserving the right to object, I think our colleague is going to speak in morning business. But I will be happy to yield to the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Was there an amendment?

Mr. BOND. If we can yield to the Senator from Texas for 10 minutes on the bill, the Senator from Idaho for morning business, and then go to a Member on the majority side of the aisle.

I believe there is a consensus developing for the unanimous consent request I have proposed.

The PRESIDING OFFICER. Would the Senator repeat his unanimous consent request.

Mr. BOND. Ten minutes to the Senator from Texas on the FISA bill, 10 minutes in morning business for the Senator from Idaho, and then a member of the majority side will be recognized for whatever he or she wishes to do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I do rise to speak on the FISA bill, which I certainly support, and also to oppose some of the amendments that will be coming forward.

I hope very much that we will be able to start voting on amendments, because we now have an agreement for voting on amendments, and I hope we can clear the FISA bill in due course and in short order. It is important because there is a deadline.

We are going to see the capability for our law enforcement officials and our intelligence officials, to monitor calls between known terrorists and suspected terrorists, whether it is into our country, or out of our country from foreign countries, we need to have this capability continue.

We have it right now. The Senate passed a good bill about 6 months ago. It has now been extended. But we do have a deadline, and the deadline is on us in the middle of this month. So we do need to pass this bill. We need to make sure the technology of the day is covered by the foreign intelligence surveillance act and subject to the security needs of our country.

There are amendments that would take away the immunity for telecommunications companies that allegedly cooperated with intelligence officials.

One amendment, No. 3907, would strip the immunity from the bill completely. The Intelligence Committee is the key committee that has looked at all of the information and assessed the need for the ability to survey known terrorists and suspected terrorist helpers in our country and in foreign countries. It is important that we allow our intelligence agents to go to telecommunications companies and get the help they need to do this kind of surveillance. Amendment No. 3907 would take away immunization for companies that may have cooperated with government requests.

The telecommunications companies allegedly assisted the intelligence community because of the need to assure that plots against our country and our citizens were uncovered before they are implemented. Now we have the potential for catastrophic liability from a number of lawsuits, and some of my colleagues want the country to turn away from providing protection for these companies. We will not allow these companies the freedom to provide the evidence in court because the intelligence community says the evidence is too sensitive to be allowed in court. We put the telecommunications companies in a situation in which they cooperate. They are sued. But they don't have the ability to defend themselves in court because they cannot produce the evidence. It is untenable, and I hope we will reject such an amendment.

There is another amendment that would allow the Government to be substituted for the telecommunications companies as the defendant when they are sued. The problem with this amendment is that the companies would still have to spend thousands of hours and millions of dollars on these lawsuits. They would have to subject their employees to depositions. They would need to participate in evidence gathering and the discovery process, which will drain their resources in an unnecessary lawsuit in which they would be peripheral.

There is yet another amendment that would grant the immunity after review by the FISA Court. While certainly well intentioned, there are some problems with giving this to a court that doesn't have the capability to process this kind of request. They don't have statutory procedures. They don't have the administrative capacity to receive witnesses, to hear evidence, or to carry out the major provisions of the amendment.

Furthermore, it is unclear that there is appellate authority from the immunity related rulings of the FISA Court this amendment creates. The FISA Court has operated in secret and has been more of an administrative court processing warrants. So this would put the court in a whole new administrative mode for which there are no precedent or appropriate regulations. There does not appear to be an appellate process from the FISA Court once it decides whether or not to grant a company immunity.

I respect the work of my colleagues. They are trying to find good-faith compromises. However, I put my faith in the Intelligence Committee. This is a committee that passed this bill, with immunity provisions in it, out of committee by a vote of 13 to 2. It was bipartisan. This is the committee that had the hearings, heard all of the evidence, and knows more about the processes than people who are not on the committee. They have spent a considerable amount of time reviewing the materials in these cases, including the Government's legal justifications for the program. We need to respect the judgment and expertise of our committees, particularly the intelligence committee. This is a committee that has done a very good job on a bipartisan basis to assure that we continue to protect our intelligence capabilities and to shield the companies necessary to gathering intelligence information from unfounded lawsuits.

I hope my colleagues will vote for the bill the Intelligence Committee produced. Protecting the American people is our ultimate responsibility. This bill is absolutely essential for that responsibility to be implemented. We must protect the American people. We must protect the companies that have helped our law enforcement and intelligence-gathering agencies. We must make sure we proceed with a vision of foreign surveillance that would protect the American people from future attack.

It is not an accident that we have not been attacked since 9/11. All of us know that our country was not prepared for this kind of warfare. But our country's eyes have been opened. We have been a sleeping giant in many ways, as was said about us before World War II. But we have now been awakened, and we are going to take the measures necessary within the framework of our Constitution, which this bill provides, to assure that we protect the American people from future attack.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho is recognized for 10 minutes as in morning business.

SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT

Mr. CRAPO. I thank the Senator from Texas and my colleagues on both sides for allowing me this few minutes to have a break in the debate on the FISA bill to discuss a very important issue to the people of Idaho and, frankly, to the people in rural communities throughout the country. I rise to talk about the need to reauthorize the Secure Rural Schools and Communities Self-Determination Act of 2000 and to fully fund the payments in lieu of taxes, or the PILT payments, which we call them in Congress. I encourage my colleagues to make this overdue extension and funding a top priority for Congress in the coming days.

This year marks the 100-year anniversary of the passage of the act requiring the U.S. Forest Service to return 25 percent of its gross receipts to the States to assist counties that are home to our national forests and other Federal lands with school and road services. This program was put into place to compensate local governments for the tax-exempt status of national forests which we all enjoy. Otherwise, many rural communities that neighbor these beautiful national treasures are unable to fully meet the school and road needs of their communities.

One hundred years ago, the impact of large Federal forest reserves on neighboring local economies was discussed and debated on the floor of the Senate, as former Idaho Senators Weldon B.

Hayburn and William Edgar Borah joined their Senate colleagues in debating this issue which remains an issue today. However, the unfortunate reality of today is that in recent years, timber receipts have eroded to the point that the Federal obligation to our local communities is simply not being met. The receipts are not adequate for the needs of the communities and have been dropping off dramatically. Congress has acted in recognition of this to ensure that communities have the necessary assistance.

In the year 2000, I joined with my colleagues, Senators LARRY CRAIG, RON WYDEN, GORDON SMITH of Oregon, and many others to support and secure enactment of the Secure Rural Schools and Communities Self-Determination Act of 2000. This law provided the necessary assistance known as county payments to communities where regular Forest Service and Bureau of Land Management receipts-sharing payments had declined so significantly. The assistance has prevented the loss of essential school and road infrastructure needs in our local rural communities. The law also enabled very significant forest improvement projects.

The best solutions to natural resource challenges are achieved through local collaboration, and the more than 70 Resource Advisory Committees—or RACs, as we call them—provided for in this law have created valuable partnerships in carrying out projects to address a wide variety of improvements on public lands. These projects include habitat and watershed restoration, reforestation, fuels reduction, road maintenance, campground and trail enhancements, and noxious weed eradication. At a time when increased public demands are being placed on our Nation's natural resources, the RACs have provided the necessary cooperation to help resolve natural resource challenges throughout these local rural communities.

Additionally, payments in lieu of taxes, known as PILT payments, have augmented county payments to provide local governments with the means of offsetting a part of the tax revenues they lose because of the tax-exempt status of these Federal lands in their jurisdictions. PILT payments have supported community services such as firefighting and police protection in rural communities. Through PILT, the Federal Government partners with counties to provide public lands the stewardship and community services they need. Unfortunately, PILT funding is also not meeting this obligation, and we need to work together in Congress to achieve full and adequate PILT funding.

I am proud of the largely bipartisan effort in the 110th Congress to extend the Secure Rural Schools and Community Self-Determination Act and to fully fund PILT. Progress has been made but more needs to be done to achieve the Federal Government's commitment to these communities.

In March of 2007, the Senate overwhelmingly passed an amendment which I cosponsored to the fiscal year 2007 emergency supplemental appropriations act to reauthorize county payments for 5 years with offsets. However, this language was replaced with a 1-year extension, with the final payments made at the end of December 2007.

In December last year, Senators MCCASKILL, CRAIG, SMITH, DOLE, MURKOWSKI, STEVENS, and BENNETT joined me in urging the Senate leadership to attach a reauthorization of county payments and PILT funding to any legislative vehicles expected to be enacted before Congress concluded its work last year. Unfortunately, the reauthorization was attached only to the energy package which also would have increased taxes on domestic oil and gas producers to pay for incentives for renewable power, energy efficiency, electric vehicles, and other technologies.

I support incentives for alternative energy resources and the extension of county payments, but I am opposed to paying for those incentives by increasing taxes on our domestic oil and gas production. We are facing real and increasing constraints on our energy supply, resulting in higher energy costs daily. We simply cannot meet those needs by decreasing conventional energy production in the United States, which would further our dependency on foreign energy supplies and dramatically increase the cost for gasoline and electricity. This would negatively impact communities across the Nation, not just the rural communities we are seeking to help.

We need to again turn our attention to focusing on the reauthorization of the Secure Rural Schools legislation and increasing and achieving full and adequate PILT funding. It is unfortunate that the county payments extension was dropped from the enacted Energy bill and was not included in other legislative vehicles before the end of last year. However, today is another day. As we embark on the second session of this Congress, we have every opportunity to work together to extend and fund county payments and fully pay for PILT payments for students in rural areas. We must do this to prevent the closure of numerous isolated schools and to enable rural county road districts to address severe maintenance backlogs.

Time is of the essence for many rural communities across the Nation, and this important legislation impacts millions of students and their families in more than 4,000 school districts and more than 7,000 counties. I am hearing from Idaho communities that, absent an extension, personnel layoffs as a result of program closures are expected soon. Communities in more than 40 States are facing similar pressures.

Just as the economic impact of Federal land ownership on neighboring rural communities has not been worn away by time, neither has this Nation's responsibility to the States worn away. It is my hope that others will join me in working to meet this Federal responsibility by reauthorizing the Secure Rural Schools Act and providing the full funding for PILT. This must be achieved in a timely manner that prevents the cutoff of needed services in rural communities nationwide and provides some long-term certainty to those rural communities.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask that I be given unanimous consent to speak on the underlying bill.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized.

Mr. ROCKEFELLER. Mr. President, I say to the Presiding Officer that far and away the most contentious issue in this FISA debate is whether private companies that assisted the Government in implementing the President's warrantless surveillance program should be provided liability protection.

Three amendments will be offered that relate directly to this issue.

First, Senators DODD and FEINGOLD have an amendment that would strike all of title II of the underlying bill—that is, S. 2248—on liability protection as reported by the Intelligence Committee.

Second, Senator SPECTER will offer an amendment—I think at 3:30—that provides for a different remedy; namely, the substitution of the U.S. Government itself for the carriers in the lawsuits that have been filed against the carriers.

Third, Senator FEINSTEIN has prepared an amendment that would keep the basic structure of title II—to wit, liability immunity—but would have the courts, rather than the Congress, determine whether carriers relied in good faith on the representation made to them by the executive branch of our National Government.

I will address the particulars of each amendment as it is offered, but first I would like to describe the background behind the Intelligence Committee's approach to this whole issue of immunity.

Critics have suggested that providing liability protection for telecommunications companies is akin to congressional endorsement of the President's warrantless surveillance program. I understand the passion stirred by this issue. Rather than consulting with Congress or the courts, the President created a secret surveillance program—no question about that—based on very dubious legal reasoning. That was unnecessary, that was unwise, that would, therefore, cause passions and suspicions.

But anger over the President's program should not prevent us as a deliberative body from addressing the real problems the President has created.

Because of the lawsuits over the program and the damage to the telecommunications companies' reputations, companies that were once willing to help the Government, based on assurances of legality from the highest levels of Government, may now be questioning that assistance.

Let's reflect on that for a moment. These are corporations. They have no names at the present time. They have to make money. The Government comes to them, as they have in the past on much smaller matters, and with the authority of the President saying, this is in the national interest; with the legal advice of the Attorney General saying, this is legal; and then the Director of the National Security Agency sending out letters that say, we require you, we compel you, we request to you—or other words—that you cooperate with us.

People say: Well, they cooperated. Of course they cooperated right after 9/11. I think anybody who is in the intelligence business understands what I am saying. There is no difference between the day after 9/11 and this day in terms of the threat to our country or those who are planning, plotting to do us harm.

The fact that no attacks have happened does not excuse the sense of relaxation on the whole subject—perhaps the congressional sense of relaxation on the whole subject. We need to continue this intelligence collection.

What is it, I am wondering, that the telecommunications companies get from this? What prestige? What large amount of money? What praise? What do they get from this? Do they get good public relations? No. They get 40 lawsuits, most of which are not based on anything to do with the TSP program. In other words, they are picked out of newspapers. People are dissatisfied, and class action suits arise.

So maybe they have been sued $10 billion. Maybe they have been sued $40 billion. We will not speculate on that at the present time. But in that they are corporations and in that they have no reward at all for doing this service for their country—which we call patriotism, and then cast that aside because that must mask some evil intent—they go ahead and they do it. Then, since they are corporations, their shareholders get extremely unhappy about it, which could be happening at the present time, and then they decide that maybe they will be less willing to do this. Several have done that. Several at the beginning did that.

Now, corporations are in business also to make a profit. The corporations that are involved in this are doing nothing but losing prestige, losing reputation, have angry shareholders. And I ask myself, what is it they get out of doing this, because people, particularly on my side of the aisle, are sometimes inclined to be suspicious of corporations, that they have some kind of a purpose behind all of this. Nothing could be further from the truth. They are losing. They are being criticized. They are being sued. It is costly. It takes away from their energy to carry out their other missions. It is not a situation in which a whole bunch of people are sitting around in these corporate headquarters discussing this, because only a very few people are allowed to know, and they have criminal sanctions against them if they tell anybody, should they have received any of these instructions from the Government.

So we are not talking about people here trying to undo the safety of the United States or to gain some kind of advantage for themselves. If this intelligence collection stops, I say to the Presiding Officer, we will be in a very sorry situation. I do not know how to say that more sincerely, more deeply felt, more based upon exhaustive study, including numerous meetings in committee with these folks and other meetings outside.

So they have been told it is legal, and by the National Security Agency Director they have been required, compelled, and in other words, some of which are quite strong, to do it. So they do start to do it, and they are paying one heck of a price for it.

What price are we paying? We are paying no price because they are still doing it. What price might we pay should they stop—because they are corporations, and they are responsible to their shareholders—if they should stop this type of activity? The price we would pay would be overwhelming. Without the cooperation and assistance of private companies—not compliance forced by a court but true cooperation—this country's law enforcement and intelligence agencies cannot obtain the information they need to protect this country. It is a fairly heavy statement to make. I chair the committee. I am not naive on these matters. I make that statement again. Without the cooperation and assistance of private companies, this country's law enforcement and intelligence agencies cannot obtain the information they need to protect this country.

Making the question of liability protection a proxy for disagreement with the President's program is, therefore, shortsighted, in this Senator's view, ignoring the reality that the Nation and future Presidents will depend on the assistance of these same companies for years to come.

In analyzing the question of liability protection, the Intelligence Committee sought to weigh these very real concerns about future intelligence collection against the possible outcome of lawsuits. We discussed it at length. Understanding this issue requires some background on the lawsuits that have been filed.

Currently, providers are subject to approximately, as I indicated, 40 civil lawsuits, some of which are class actions, which seek billions of dollars of damages—and I have given you a range—for privacy violations based on the companies' alleged provision of assistance and information to the intelligence community. The suits are based—many of them—on media reports about all sorts of intelligence activities. Many of them are not limited to the warrantless surveillance program disclosed by the President. That is ironic, but it is a heavy burden for the companies. If suits are brought that have nothing to do with the warrantless surveillance program disclosed by the President, they are out of order. But, as I will proceed to explain, the companies can never explain to a court that they are out of order. Although these suits involve different types of legal claims that are in varying stages of litigation, they share a common reality: that the Government has refused to publicly reveal the classified documents and information that would allow them to proceed.

The current fight in the courts is, therefore, not about whether damages should be awarded, whether the underlying program is legal or even whether any company participated in the President's program in good faith. Instead, the parties are fighting about access to classified information about the President's program. I have not heard that much discussed in this Chamber. This litigation could continue for years without a court ever addressing the underlying issues about the legality of the program. We seek wrongdoing whether, as some say, it is in the corporate boardroom or, as others would say—as I would say—in the halls of Government.

I stress the point: No court is likely to resolve the question of whether the President or any private company violated the law in the near future.

Some of my colleagues have argued that without these lawsuits, the public will never learn the details about the President's program. But litigation is highly unlikely to tell the story of what happened with the President's program. Too many of these facts dealing with intelligence sources and methods remain appropriately classified, and the executive branch is highly unlikely to agree to declassify additional information if it could affect the ongoing litigation.

Thus, the litigation is unlikely to result in a ruling in the near future about the legality of the conduct of the President nor any private company, nor, for that matter, the public disclosure of any additional information about the President's program. Instead, it is possible the cases, as I indicated, will continue for years as the courts debate whether information must be disclosed.

In the meantime, however, as I mentioned, the litigation poses a serious risk to U.S. intelligence collection. That is my job and that is the job of the committee I chair and the job of the chairman of the Intelligence Committee in the House. We are not about being courts, we are about trying to balance civil liberties as best as we can

with the ability of this country to collect an entirely different kind of intelligence that we were so busy doing recently in the Cold War era. Without the assistance of telecommunications providers, our intelligence community simply cannot obtain the intelligence it needs.

Is that a serious statement? Do Members of the Senate concern themselves with that? Is this just me, this Senator, standing up making a statement trying to win some votes? Or is there the possibility it could be true? If there is a possibility—and I think it is a probability it is true—then I don't understand why people can be confused on this subject because I think the choices are clear. Allowing companies to be dragged through the court system because of their alleged cooperation with the Government encourages them not to cooperate with any request, even those that are clearly legal without court compulsion. It also sends a message to all private companies: cooperate with the U.S. Government at your peril. Is that a bit of an overstatement? In the corporate boardrooms around this country, my guess is that is the discussion. Very few corporations have the capacity to help the Government in the way telecommunications companies do.

Discouraging private sector cooperation with the Federal Government is not, in the feeling of this Senator, the right long-term result for either the intelligence community or the American people.

Many have argued that providers who act unlawfully should be held accountable. I totally agree that all Americans, including corporate citizens, must follow the law and be held accountable for their failures. Companies that deliberately seek to evade privacy laws or legal restrictions on electronic surveillance can and should be subject to civil suit, but that is not the issue here, I would say to the Presiding Officer. That is not the issue.

The Intelligence Committee spent a lot of time, as I have indicated, this year looking into what happened over the past 6 years. Before deciding to provide liability protection for the companies, the Intelligence Committee heard testimony from relevant witnesses and carefully reviewed the written communications provided to participants in the program.

Participants were sent letters, all of which stated the relevant activities had been authorized by the President and all but one—and that was done by the legal counsel to the President—of which stated the activities had been determined to be lawful by the Attorney General of the United States. Shouldn't private companies be entitled to rely on the written representations of the highest levels of Government officials that their cooperation is necessary and has been determined to be lawful? Can you argue that if they get those notifications from the NSA Director and it has been approved by the Attorney General and has been declared essential for the national interest by the President, should they instead say: Oh, well, we don't care about that. That is not our business. We are not going to do that.

And isn't it reasonable to assume that a U.S. citizen who has been told the Attorney General has found their cooperation to be lawful is acting in good faith? If they have been through this process and they proceed to act on it, why is it so easy to stipulate they are not acting in good faith? How does one show that? How does one imagine that?

I have been through this, this whole question of what the companies get from it, and it is the thing that bothers me so much. They get nothing but grief. They get suits. They get costs. They get a diminished reputation. They begin to pull away. Their shareholders lose confidence. Do they get money? No. They get nothing. So why would they want to continue to cooperate would be my question.

The answer to these questions are at the heart of the Intelligence Committee's determination that it is essential that Congress protect private companies that assisted the Government after the terrorist acts of 9/11.

Mr. President, I will complete this part of my presentation and yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that at 3:05 p.m. today the Senate return to the Cardin amendment No. 3930, with the time from 3:05 until 3:15 equally divided and controlled in the usual form; that the Senate then proceed to vote in relation to the amendment, with other provisions of the previous order remaining in effect.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BOND. No.

Mrs. FEINSTEIN. Mr. President, reserving the right to object, I wish to secure the ability, following this vote, to call up one of my amendments, if I might. My understanding is that maybe I can do it now.

Mr. ROCKEFELLER. This is a total of 10 minutes or less amendment, but we will not start until 3:05. The Senator can call it up.

Mrs. FEINSTEIN. All right.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from California is recognized.

AMENDMENT NO. 3910 TO AMENDMENT NO. 3911

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the present amendment be set aside in order for me to call up amendment No. 3910 on FISA exclusivity.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. WYDEN, Mr. HAGEL, Mr. MENENDEZ, Ms. SNOWE, and Mr. SPECTER, proposes an amendment numbered 3910.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide a statement of the exclusive means by which electronic surveillance and interception of certain communications may be conducted)

Strike section 102, and insert the following:

**SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.**

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

''STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

''SEC. 112. (a) Except as provided in subsection (b), the procedures of chapters 119, 121 and 206 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance (as defined in section 101(f), regardless of the limitation of section 701) and the interception of domestic wire, oral, or electronic communications may be conducted.

''(b) Only an express statutory authorization for electronic surveillance or the interception of domestic wire, oral, or electronic communications, other than as an amendment to this Act or chapters 119, 121, or 206 of title 18, United States Code, shall constitute an additional exclusive means for the purpose of subsection (a).''.

(b) OFFENSE.—Section 109 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809) is amended—

(1) in subsection (a), by striking ''authorized by statute'' each place it appears in such section and inserting ''authorized by this Act, chapter 119, 121, or 206 of title 18, United States Code, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 112.''; and

(2) by adding at the end the following:

''(e) DEFINITION.—For the purpose of this section, the term 'electronic surveillance' means electronic surveillance as defined in section 101(f) of this Act regardless of the limitation of section 701 of this Act.''.

(c) CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 2511(2) of title 18, United States Code, is amended—

(A) in paragraph (a), by adding at the end the following:

''(iii) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the

specific statutory provision, and shall certify that the statutory requirements have been met.''; and

(B) in paragraph (f), by striking '', as defined in section 101 of such Act,'' and inserting ''(as defined in section 101(f) of such Act regardless of the limitation of section 701 of such Act)''.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

''Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.''.

Mrs. FEINSTEIN. Mr. President, I voted for this FISA legislation in the Intelligence Committee. I indicated then that I had some concerns about it. I filed additional views with respect to the need for stronger exclusivity provisions. Then the Judiciary Committee reported out a bill that included its view with respect to strengthening the fact that the Foreign Intelligence Surveillance Act would be the exclusive manner in which electronic surveillance against Americans could be conducted.

The Judiciary bill subsequently failed on the floor of the Senate. The amendment I have at the desk is essentially the exclusivity language from that Judiciary Committee amendment. It has several cosponsors: the chairman of the Intelligence Committee, Mr. ROCKEFELLER; chairman of the Judiciary Committee, Mr. LEAHY; Senator NELSON of Florida; Senator WHITEHOUSE; Senator WYDEN; Senator HAGEL; Senator MENENDEZ; Senator SNOWE; and Senator SPECTER.

As filed this is an amendment that only covers exclusivity. In the interim period, the vice chairman of the Intelligence Committee approached me about the possibility of a modification of the amendment that would allow the administration to be able to operate outside of FISA for a time.

We have not been able to come to terms on that amendment. I could not agree to the length of time that Mr. BOND proposed, which was 45 days plus an additional 45 days, for a total of 3 months, enabling the administration to operate without a FISA warrant.

The fact is, since January of 2007, the entire Terrorist Surveillance Program has operated within the confines of the Foreign Intelligence Surveillance Act and under orders from the Foreign Intelligence Surveillance Court. That is, I believe, as it should be.

I have a modification to my exclusivity amendment that would limit the period of time outside of FISA following a declaration of war, an authorization for the use of military force, or a major attack against the nation to 30 days. The question is whether I would have unanimous consent from the vice chairman to be able to call up that modification of my amendment. But that has not been given to me yet.

So at this time, I am going to rest my case on the exclusivity amendment, and I will have an opportunity, I hope, to argue it later.

I would now like to call up my amendment, No. 3919.

The PRESIDING OFFICER (Mr. SANDERS). Amendment No. 3910 is pending.

AMENDMENT NO. 3919 TO AMENDMENT NO. 3911

Mrs. FEINSTEIN. Mr. President, I wish to make another amendment pending, so I ask unanimous consent to set aside the pending amendment and call up amendment No. 3919. This is the FISA Court review of immunity amendment. This is my second amendment which is part of the unanimous consent agreement. I do this just to get it before the body.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. NELSON of Florida, and Mr. CARDIN, proposes an amendment numbered 3919 to amendment No. 3911.

The amendment is as follows:

(Purpose: To provide for the review of certifications by the Foreign Intelligence Surveillance Court)

On page 72, strike line 13 and all that follows through page 73, line 25, and insert the following:

(6) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The term ''Foreign Intelligence Surveillance Court'' means the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

(7) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—The term ''Foreign Intelligence Surveillance Court of Review'' means the court of review established under section 103(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(b)).

**SEC. 202. LIMITATIONS ON CIVIL ACTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS.**

(a) LIMITATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (3), a covered civil action shall not lie or be maintained in a Federal or State court, and shall be promptly dismissed, if the Attorney General certifies to the court that—

(A) the assistance alleged to have been provided by the electronic communication service provider was—

(i) in connection with an intelligence activity involving communications that was—

(I) authorized by the President during the period beginning on September 11, 2001, and ending on January 17, 2007; and

(II) designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the United States; and

(ii) described in a written request or directive from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider indicating that the activity was—

(I) authorized by the President; and

(II) determined to be lawful; or

(B) the electronic communication service provider did not provide the alleged assistance.

(2) SUBMISSION OF CERTIFICATION.—If the Attorney General submits a certification under paragraph (1), the court to which that certification is submitted shall—

(A) immediately transfer the matter to the Foreign Intelligence Surveillance Court for a determination regarding the questions described in paragraph (3)(A); and

(B) stay further proceedings in the relevant litigation, pending the determination of the Foreign Intelligence Surveillance Court.

(3) DETERMINATION.—

(A) IN GENERAL.—The dismissal of a covered civil action under paragraph (1) shall proceed only if, after review, the Foreign Intelligence Surveillance Court determines that—

(i) the written request or directive from the Attorney General or the head of an element of the intelligence community (or the deputy of such person) to the electronic communication service provider under paragraph (1)(A)(ii) complied with section 2511(2)(a)(ii) of title 18, United States Code, and the assistance alleged to have been provided was provided in accordance with the terms of that written request or directive;

(ii) subject to subparagraph (C), the assistance alleged to have been provided was undertaken based on the good faith reliance of the electronic communication service provider on the written request or directive under paragraph (1)(A)(ii), such that the electronic communication service provider had an objectively reasonable belief under the circumstances that compliance with the written request or directive was lawful; or

(iii) the electronic communication service provider did not provide the alleged assistance.

(B) PROCEDURES.—

(i) IN GENERAL.—In reviewing certifications and making determinations under subparagraph (A), the Foreign Intelligence Surveillance Court shall—

(I) review and make any such determination en banc; and

(II) permit any plaintiff and any defendant in the applicable covered civil action to appear before the Foreign Intelligence Surveillance Court pursuant to section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803).

(ii) APPEAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—A party to a proceeding described in clause (i) may appeal a determination under subparagraph (A) to the Foreign Intelligence Surveillance Court of Review, which shall have jurisdiction to review such determination.

(iii) CERTIORARI TO THE SUPREME COURT.—A party to an appeal under clause (ii) may file a petition for a writ of certiorari for review of a decision of the Foreign Intelligence Surveillance Court of Review issued under that clause. The record for such review shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision.

(iv) STATE SECRETS.—The state secrets privilege shall not apply in any proceeding under this paragraph.

(C) SCOPE OF GOOD FAITH LIMITATION.—The limitation on covered civil actions based on good faith reliance under subparagraph (A)(ii) shall only apply in a civil action relating to alleged assistance provided on or before January 17, 2007.

Mrs. FEINSTEIN. I ask that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

AMENDMENT NO. 3930

Mr. CARDIN. Mr. President, shortly we will be voting on the amendment I offered that provides for a 4-year sunset in the Foreign Intelligence Surveillance Act.

I thank first Senator ROCKEFELLER for his help, Senator LEAHY, Senator

MIKULSKI, Senator KENNEDY, and others who have been instrumental in making sure that we have provisions in this bill so that we continue our congressional oversight.

This amendment is not unusual. Every major change in the FISA law has been accompanied by a sunset. When we passed the PATRIOT Act, we had a 4-year sunset on most of the provisions. When we revised it, we had a 3-year sunset on the most controversial provisions. When we passed the Protect America Act, we had a very short sunset on it because we were not certain we were getting it right.

This change is controversial. If my colleagues think it is not controversial, look at all the debate that has taken place on the floor of this body. We want to make sure that we get it right.

It is interesting that as we get close to the time when Congress has to act, we seem to get a lot more cooperation from the executive branch of Government. The sunset will ensure that we get the type of cooperation we need to carry out our responsibilities, to get the documents we need to make sure we get it right.

As I pointed out, technology is changing quickly. I think a 4-year period is reasonable for us to take a fresh look at this issue.

This is not a question of whether we should have a sunset in the bill. There is a 6-year sunset in the bill. So why is it so important to have a 4-year sunset versus a 6-year sunset? The answer, quite frankly, is we want the next administration that is going to take office in January to focus on this issue and work with us so they can operate collectively with the authority of Congress and the laws we pass in the executive branch. It is important that the next administration focus on this issue, and that is why this amendment is particularly important.

My friend from Missouri pointed out that this is an election year. No, it is not. The sunset provision would terminate in December of 2011, so it is a year before the elections. I think it is the right time for a sunset.

I know the administration does not want any sunset in this bill. I understand that. As I pointed out before, they don't want any congressional oversight. They don't even think they need congressional laws on this subject. They don't even think they need a Congress. But we have our responsibility, and I hope we would want this issue revisited during the next administration. I urge my colleagues to support the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we have discussed this issue before on the floor. I urge my colleagues to vote against this amendment. As I have stated previously, the current bill, the Protect America Act, had a 6-month sunset on it only because we were not able to bring a full, complete FISA modernization bill to the floor, given the failure of Congress to act. We had been requested in April, May, June, and July to change the law. This is a bill that should establish a permanent operating authority for the intelligence community and the private partners who work with it.

As part of the compromise we reached in passing the bill, I did not believe we should have a sunset, but we agreed on a 6-year sunset. That was part of the deal. The 6-year sunset at least gives us certainty over the 6 years in time, that both the intelligence agencies, our private partners, and our allies abroad who depend upon us would have time to make this system work.

The problem we face is that any sunset withholds from our intelligence professionals and the private partners the certainty and the permanence they need to protect Americans from terrorism and other threats to national security.

Attorney General Mukasey has said there are no fatwahs with limitations by the terrorist leaders who seek to do us harm. They put out orders to keep trying to kill us, and these are not going to go away. There should be no sunset on this bill.

I disagree very strongly with my friend from Maryland that Congress is an important part of this. We passed a good bill that adds far more protections than Americans have ever had in intelligence collection. This bill is a good bill, but I can assure him that we have a strong bipartisan committee and a strong staff that will continue to oversee, supervise, and watch the surveillance to make sure it works. If we find it does not work, we should not wait for a 4-year sunset or a 6-year sunset. We should make those changes when they are needed.

We can see how long we have had to fight to get this authorization through. There was no action from the majority from April, May or June, until the very end of July. We put this bill out on the floor in October. We could not get the bill up in December because of filibusters. We had to get another 15-day extension so it would not expire.

We can act on the bill any time we need, but we cannot deprive our partners, our intelligence community, and our allies the protection if Congress cannot work.

I yield time to the distinguished chairman of the committee.

Mr. ROCKEFELLER. I say to the Presiding Officer, I find myself in disagreement with my vice chairman. I originally wanted 4 years and we went to 6 years because of accommodations that yielded other results. In the wisdom of the joint Intelligence Committee and Judiciary Committee, settling on 4 years makes a lot of sense. I urge the adoption of the amendment.

Mr. KENNEDY. Mr. President, the amendment that Senator CARDIN has offered is very simple, but it is absolutely critical to this bill. The amendment would move up the bill's sunset date from 6 years to 4 years. Congress would need to revisit the law by the end of 2011 instead of 2013.

The amendment is good public policy. Whenever a significant new law is enacted, it is important to require Congress to revisit it at an earlier rather than a later date.

The FISA bill we are considering is highly complicated legislation affecting Americans' security and liberty. It grants the executive branch vast new authority for electronic surveillance at a time of rapidly changing technology and rapidly changing threats. Even the country's leading national security experts cannot say for sure what our national security challenges will look like in 3 years, much less how this legislation will work out in practice.

This is also highly controversial legislation. I don't need to remind anyone in this Chamber of the intense debate that has been taking place over many parts of this bill. The FISA rules on electronic surveillance affect every American. They are the only thing that stands between the freedom of Americans to make a private phone call, send a private e-mail, or search the Internet, and the ability of the Government to listen in on the call, read the e-mail, and review the Internet search.

In this information age, FISA gives Americans basic protection against Government tyranny and abuse, and we owe it to the American people to revisit it promptly to make sure its protections are effective.

Congress also needs an earlier sunset because we need more information to assess how these new policies will work in practice. The ongoing confusion and controversy in this area mean that Congress does not have enough knowledge or confidence to be sure the legislation is adequate.

With an early sunset, Congress will have to make an early assessment of how the legislation is being interpreted and implemented. We will be able to identify problems and abuses much sooner. If changes are made to the law in 2011, it will be because experience has shown that changes are needed.

We passed this exact same amendment in the Judiciary Committee in the middle of November, and in the weeks since then, I have heard only two arguments against it, both from the White House. Neither of them holds up.

The first objection is that there has already been sufficient consideration of these issues, so that Congress should be able to pass a permanent FISA reform right now. Everyone agrees that short sunsets are valuable when Congress has not had time to consider an issue thoroughly and develop a factual record. But the Bush administration claims there has already been a detailed and informed discussion of FISA modernization.

That objection is wrong on the facts. The administration has recently started to work with Congress more openly, but there is still a great deal we don't know about how it has been conducting its electronic surveillance. Much of what we have learned has come from leaks to the press.

A few months ago, the White House decided to share with the Senate certain documents on the role of the telecommunications companies in an effort to obtain retroactive immunity for them. This was the first time the administration had ever shown Congress any documents on its warrantless surveillance. So far, however, the White House has shared only a small number of documents with a small number of Senators—and until late last month, not with any Members of the House of Representatives. Such selective disclosure is a pale shadow of the real disclosure Congress needs to enact good legislation.

That objection is also wrong as a matter of policy. No matter how much discussion there may have been, this is highly complicated legislation that makes major, untested changes in our surveillance laws. It is impossible for Congress to analyze these issues in the abstract, without any track record to evaluate. With a law as complex, new, and important as this, a short sunset is responsible policy.

The second objection I have heard is that a short sunset introduces too much uncertainty to the rules affecting our intelligence professionals. The administration says it is not efficient for agencies to develop new policies and procedures, only to have the law change within a brief period. They say the intelligence community operates more effectively when the rules governing intelligence professionals are well-established, and are not in doubt.

This objection is more serious, but it too dissolves upon consideration. It is true that there may be a little extra uncertainty that comes with a short sunset. But the much more significant uncertainty is whether all of the changes made by this bill will be good for the country—and there is no way to be sure about this ahead of time.

Intelligence professionals should not be locked into a surveillance system that doesn't work well for them, and Americans should not be locked into a system that fails to protect their security or their rights. The early sunset guarantees that Congress will review these extremely complicated, untested, and powerful new authorities and how they are actually being used by the executive branch.

The administration's argument against a sunset is an argument against congressional oversight of FISA. The White House wants Congress to pass a new FISA law, and then to look the other way while the executive branch implements and interprets its new powers. They want Congress to trust them when they tell us how the law is working, rather than look into it ourselves.

Given this administration's track record of warrantless illegal spying, ''trust us'' is not an acceptable way to proceed. Congress needs to stay on top of this issue to make sure that our surveillance laws are keeping Americans safe and protecting their freedom. That is what we have been elected to do, and that is what the Constitution requires us to do.

As I said at the start, this amendment is very simple. It moves the sunset date up by 2 years. Yet it may well be the single most important thing Congress can do to ensure that we reform FISA in a responsible and effective way.

This sunset amendment is a win-win for national security and civil liberties. It will ensure that Congress remains engaged on the crucial issues of electronic surveillance that affect all Americans. To make sure that our new FISA law actually gets the job done, I urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, let me briefly summarize the comments Senator BOND made. It is true that the terrorist groups do not have any types of restrictions on what they can do. They do not have any legislature. They do not have any courts. They do not have any constitution. They have no respect for human life. They have no civil liberties with which they have to deal. But that is what makes this Nation the great nation it is. It is our responsibility to make sure that we carry out what the people of our Nation expect us to do.

Let me point out that the PATRIOT Act, when it was passed, had a 4-year sunset. Then we reauthorized some of the provisions, but we kept a 3-year sunset. We have used sunsets that have been shorter, and on controversial laws, a 4-year sunset is the minimum we should have.

I urge my colleagues to understand that it is important that the next administration work with us so we never get back to where we are this year, where the executive branch is heading in one direction and we don't know what they are doing. Let's work together so we can keep Americans safe, having the administration work with us next year so we understand what they are doing, they have our support and, if necessary, we modify the laws to give them the tools they need to keep America safe.

I urge my colleagues to support the amendment.

Mr. BOND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 1 minute 10 seconds remaining.

Mr. BOND. Mr. President, this is a great nation because we have kept our country safe. We have kept our country safe, and we are working very closely with the intelligence community. That is why we have a good bill. The intelligence community says we must have the certainty at least of 6 years. I wanted to see none. That is why we came to an agreement in the Intelligence Committee and a 13-to-2 vote said we should have this bill with a 6-year sunset.

We have a solid bipartisan product addressing civil liberties concerns, while making sure the intelligence community has the tools and authorities it needs to keep us safe.

As I said, this was an important part of our compromise to get the bill through. Our intelligence collectors and troops on the battlefield need certainty, not rules that will expire in 4 years. That is why both the Director of National Intelligence and the Attorney General strongly oppose shortening the 6-year sunset in the bill.

I urge my colleagues to join me in opposing this amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, quickly, in closing, I thank the chairman of the Intelligence Committee for his support of this amendment. This amendment does nothing to jeopardize the bipartisan work of the Intelligence Committee. It preserves the appropriate role of the legislative branch of Government, and I would hope all my colleagues would want to support that change to make it clear that the next administration must come back to Congress.

With that, Mr. President, I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

Mr. BOND. Mr. President, there is a 60-vote agreement on this.

The PRESIDING OFFICER. That is correct.

The question is on agreeing to amendment No. 3930. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 46, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—49

| | | |
|---|---|---|
| Akaka | Casey | Kerry |
| Baucus | Conrad | Klobuchar |
| Bayh | Dodd | Kohl |
| Biden | Dorgan | Landrieu |
| Bingaman | Durbin | Lautenberg |
| Boxer | Feingold | Leahy |
| Brown | Feinstein | Levin |
| Byrd | Harkin | Lincoln |
| Cantwell | Inouye | McCaskill |
| Cardin | Johnson | Menendez |
| Carper | Kennedy | Mikulski |

| | | |
|---|---|---|
| Murray | Reid | Tester |
| Nelson (FL) | Rockefeller | Webb |
| Nelson (NE) | Salazar | Whitehouse |
| Obama | Sanders | Wyden |
| Pryor | Schumer | |
| Reed | Stabenow | |

NAYS—46

| | | |
|---|---|---|
| Alexander | DeMint | Murkowski |
| Allard | Dole | Roberts |
| Barrasso | Domenici | Sessions |
| Bennett | Ensign | Shelby |
| Bond | Enzi | Smith |
| Brownback | Grassley | Snowe |
| Bunning | Gregg | Specter |
| Chambliss | Hagel | Stevens |
| Coburn | Hatch | Sununu |
| Cochran | Hutchison | Thune |
| Coleman | Inhofe | Vitter |
| Collins | Isakson | Voinovich |
| Corker | Kyl | Warner |
| Cornyn | Lugar | Wicker |
| Craig | Martinez | |
| Crapo | McConnell | |

NOT VOTING—5

| | | |
|---|---|---|
| Burr | Graham | McCain |
| Clinton | Lieberman | |

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

The majority leader is recognized.

Mr. REID. Mr. President, I move to reconsider the vote and table that motion.

The motion to table was agreed to.

CONGRATULATING SENATOR INOUYE ON HIS 15,000TH VOTE

Mr. REID. Mr. President, 2LT DANIEL K. INOUYE distinguished himself by extraordinary heroism in action on April 21, 1945, in the vicinity of San Terenzo, Italy.

While attacking a defended ridge guarding an important road junction, Second Lieutenant INOUYE skillfully directed his platoon through a hail of automatic weapons and small arms fire in a swift and enveloping movement that resulted in the capture of an artillery and mortar post and brought his men to within 40 yards of the hostile force.

Emplaced in bunkers and rock formations, the enemy halted the advance with crossfire from three machine guns. With complete disregard for his personal safety, Lieutenant INOUYE crawled up the treacherous slope to within 5 yards of the nearest machine gun and hurled two grenades, destroying the emplacement.

Before the enemy could retaliate, he stood up and neutralized a second machine gun nest. Although wounded by a sniper's bullet, he continued to engage other hostile positions at close range until an exploding grenade shattered his right arm.

Despite the intense pain, he refused evacuation and continued to direct his platoon until enemy resistance was broken and his men were again deployed in defensive positions.

In the attack, 25 enemy soldiers were killed and 8 others were captured. By his gallant, aggressive tactics, and by his indomitable leadership, Lieutenant INOUYE enabled his platoon to advance through formidable resistance and was instrumental in the capture of the ridge.

Lieutenant INOUYE'S extraordinary heroism and devotion to duty are in keeping with the highest traditions of military service and reflect great credit on him, his unit, and the U.S. Army.

Mr. President, Members of the Senate, these are the words that describe the actions of heroism of Senator INOUYE, when, as a young man, he put his own safety aside for others. As a result of that he was awarded America's highest honor for gallantry and heroism, the Medal of Honor.

The reason I bring this to everyone's attention today is that we have a lot of new Senators. I want every one of them to know this man DAN INOUYE is a man who was born to be a hero. He never thinks of himself but of others. In my 25-plus years in Congress, that is how I have found him to be.

I rise to express joy and honor for my friend and colleague Senator INOUYE on the occasion of his 15,000th rollcall vote, which was just completed.

DAN INOUYE was born to Japanese-American immigrants in Honolulu, the eldest of four children. Did he ever set an example—he sure did—for his siblings. On the day of the Pearl Harbor attack, with chaos reigning, and being only 17 years old, he volunteered to provide medical help to the injured, and there were a lot of injured. After high school, he wanted to become a medical doctor. At the time the U.S. Army banned Japanese Americans from becoming soldiers. The war broke out, but this ban was dropped, and as a teenager, DAN INOUYE immediately put his medical ambition aside and signed up to serve his country in the military. Perhaps it was fate that DAN INOUYE joined the legendary 442nd regimental combat team which in no small part, thanks to his bravery, became the most highly decorated unit in the history of the U.S. Army.

I can't improve the words of praise this great man earned upon receiving the Medal of Honor for his courageous service. I read that. But I think we all here recognize we serve with a very extraordinary human being. While he was recovering from his injuries—and it was more than his arm; his whole body was hurt and, as a result he spent years in a military hospital—in the military hospital, he met another wounded warrior, a man named Bob Dole. They recuperated together, both having severe arm injuries, among other things. The only injuries you could see with Senator Dole and Senator INOUYE were the arms. But, of course, their injuries were much more severe than that. While there, Senator Dole told Senator INOUYE, both to be Senators: I am going to run for Congress. Senator INOUYE beat him there by a few years. That chance encounter began a lifetime of friendship that took these two wounded warriors from hospital beds in Battle Creek, MI, to seats in the Senate. The friendship and close working relationship they have shared is emblematic of Senator INOUYE's lifelong commitment to bipartisanship in the pursuit of progress.

In his decades of public service, Senator INOUYE has been a leader on issue after issue of concern to the American people. As chairman of the Subcommittee on Defense Appropriations, he is the leading expert and national advocate for national security, strengthening the military, and honoring our troops and veterans.

As the first person of Japanese descent to serve in the Senate, DAN INOUYE is a soft-spoken trailblazer.

On a personal level, I was a very new Senator and he had made a commitment to do a fundraiser for me in Florida. He didn't know at the time he made this commitment that there would be other things that would be in the way of that. There was a little thing in the way, his wife's birthday. She understood. He understood. And he, because he had made a commitment, made the personal sacrifice and came down there. I have never forgotten that. That is why when he sought a leadership position in the Senate, I was the first to stand in line to support Senator INOUYE. His heroism and extraordinary lifetime of public service are an inspiration to us all.

But on a personal note, Landra and I, and all my colleagues, are so happy and pleased to hear the recent news that DAN and Irene will be married this May. All of us in the Senate family wish them happiness and joy.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, the U.S. Senate has been conducting its business here in Washington for just over 200 years. For more than one-fifth of that time, Senator DANIEL INOUYE of Hawaii has been casting rollcall votes. And just now, he cast his 15,000th, making him the fourth most prolific voter in Senate history.

If Senator INOUYE had anything to say about it, I have no doubt the moment would have passed without fanfare. Some Senators make their presence felt by talking a lot or by being flamboyant. DAN INOUYE has always been another sort of Senator.

He is one of only 107 Americans alive today to have received the Medal of Honor for combat bravery. He is the iconic political figure of the 50th State, the only original member of a congressional delegation still serving in Congress. And he has ensured through many years of diligent service on the Defense Appropriations Subcommittee that an entire generation of America's uniformed military has gone well prepared into battle and was well cared for when they returned.

Despite all this, DAN's quiet demeanor and adherence to a code of honor and professionalism has made him a stranger to controversy and to the fleeting fame that often comes with it. He is a man who has every reason to call attention to himself but who never does. He is the kind of man, in short, that America has always been grateful to have, especially in her darkest hours, men who lead by example and who expect nothing in return.

Historians tell us about one of those dark moments early in our Nation's

history, just after the surrender at Yorktown. Hostilities with the British had ended, but America was on the brink of a military coup. Congress had promised to give officers and soldiers back pay, food, and clothing, and hadn't delivered. The situation grew so serious that U.S. officers threatened an armed revolt.

In a meeting at Newburgh, George Washington urged patience. He assured the officers Congress would act justly. And then, with anger and impatience still in the air, he pulled a letter from his pocket from Congress. Staring at it for a few moments with a look of confusion, he reached into his pocket again and pulled out a pair of reading glasses that only his closest advisers had ever seen. ''You will permit me, gentlemen, to put on my spectacles,'' he said. ''For I have not only grown gray, but almost blind, in the service of my country.''

Some of the officers wept with shame. One man's heroism was enough to dissolve whatever hostilities remained. Revolt was averted, peace preserved, and a roomful of men learned that day what it meant to be an American.

More than a century and a half later, after another dark moment in our Nation's history, another roomful of men would learn a similar lesson. The year was 1959, the place was the U.S. Capitol, and a young man named DANIEL INOUYE was being sworn into office.

The memory of a hard-fought war against the Japanese was fresh in many minds as the Speaker, Sam Rayburn, prepared to administer the oath—not only to the first Member from Hawaii, but to the first American of Japanese descent ever elected. Rayburn spoke: ''Raise your right hand and repeat after me . . .''

Here's how another Congressman would later record what followed: ''The hush deepened as the young Congressman raised not his right hand but his left and repeated the oath of office. There was no right hand. It had been lost in combat by that young American soldier in World War II. And who can deny that, at that moment, a ton of prejudice slipped quietly to the floor of the House of Representatives.''

As a young boy growing up in Hawaii, DAN and his friends always thought of themselves as Americans. But after Pearl Harbor, they found themselves lumped together with the enemy. It was one of the reasons so many of them felt such an intense desire to serve. Their loyalty and patriotism had been questioned, and they were determined to show their patriotism beyond any doubt.

At first they weren't allowed to volunteer. A committee of the Army, caving to prejudice, recommended against forming a combat unit of Japanese Americans. But they persisted, and on June 5, 1942, the policy changed.

In reversing the previous order, President Roosevelt said, quote, ''Americanism is a matter of the mind and heart. Americanism is not, and never was, a matter of race or ancestry.''

The overwhelming response of Japanese Americans proved Roosevelt right. Eighty percent of the military-age men of Japanese descent who lived in Hawaii volunteered for the first-ever, all-Japanese-American combat team. And among the 2,686 accepted was an 18-year-old freshman at the University of Hawaii named DAN INOUYE.

The 442nd Regimental Combat Team, the famous ''Go for Broke'' regiment, would become the most decorated military unit in American history. SGT DAN INOUYE was one of its combat platoon leaders. He spent 3 bloody months in the Rome Arno campaign and 2 brutal weeks rescuing a Texas battalion that was surrounded by German forces, an operation military historians often describe as one of the most significant military battles of the 20th century.

After the rescue, Sargeant INOUYE was sent back to Italy, where on April 21, 1945, he displayed ''extraordinary heroism,'' in leading his platoon through tough resistance to capture an important strategic ridge. Crawling within five yards of the nearest machine gun, he destroyed it with grenades, then stood up and destroyed several others machine gun nests at close range—even as a sniper's bullet shattered his arm. Despite the pain, he continued to direct his men until the enemy's retreat, and become one of the most decorated soldiers of the war.

DAN would later spend nearly 2 years in an Army hospital in Battle Creek, MI, and it was there that he met a wounded soldier, as the majority leader mentioned, from Kansas. DAN had always wanted to be a surgeon, but that dream faded away on a ridge in Italy. He decided to ask his friend what he had in mind for a career. Politics was the reply. DAN was intrigued. And many years later, as a freshman in Congress, he wrote a note to Bob Dole, playfully taunting him for not making it here first.

It is fitting that DAN owes his Senate career, in a sense, to a Republican. He has never let narrow party interests stand in the way of friendship or cooperation on matters of real national importance. His friendship with Senator STEVENS is one of the most storied in all of Senate history. And I know I have never hesitated to call DAN when I thought something important was at stake. As DAN has always said, ''to have friends, you've got to be a friend.''

It is a good principle, and it is one he has always lived up to. But it is just one of the remarkable traits that have made him one of America's great men.

On the morning of his first day in the Army, DAN rode part of the way to the barracks on a bus with his dad. He later recalled that at one point his father grew somber, offered his first son some brief advice about the importance of having good morals, then said something about the country he would soon defend.

''America has been good to us,'' his father said. ''And now—I would never have chosen it to be this way—but it is you who must try to return the goodness of this country.''

DAN INOUYE would make his father very proud. He has more than repaid the goodness of this country. I know I speak for every other Senator who has served with him, the people of Hawaii, and anyone who respects this institution or loves this country, when I say thank you for the dignity, the grace, and the heroism with which you have lived your great American life. You are an example and an inspiration to all of us.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Hawaii.

Mr. AKAKA. Madam President, in the year 1924, a child was born to a woman who was nurtured by a Hawaiian family. He was born in Hawaii as an American of Japanese ancestry. He was brought up in Hawaii and went to school there, graduated from McKinley High School in 1942, and decided to serve our country, as he did. You have heard others tell about his activities as an Army person. But he went on to finally receive the Medal of Honor from this country, which is the greatest medal anyone can receive. This is Senator DAN INOUYE.

When he finished his service, he used the GI bill, of which he was a recipient, to be educated. When he returned to Hawaii, he entered into politics and served in the State legislature.

When Hawaii became a State in 1959, he was Hawaii's first U.S. House of Representatives Member. It was from there he did run for the Senate and was elected and has been here since that time. DAN INOUYE has served our country well over these years, and he has served Hawaii well.

So today I rise to mark a historic occasion, which is Senator INOUYE's 15,000th vote. This historic milestone is compelling evidence of Senator INOUYE's devotion to public service. The people of Hawaii have given him their trust, and in return he has fought relentlessly for our State and our country.

DAN INOUYE is an institution, without question, in the Senate, and I look forward to casting many more votes with my good friend and mentor and brother to benefit Hawaii and strengthen the United States.

God bless you, Senator INOUYE, and with much aloha.

Thank you very much.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I am deeply moved and most grateful for the generous and warm remarks of my colleagues. I shall do my very best to live up to their praise.

I thank you very much.

(Applause, Senators rising.)

Mr. COCHRAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3927 TO AMENDMENT NO. 3911

(Purpose: To provide for the substitution of the United States in certain civil actions)

Mr. SPECTER. Madam President, I now call up amendment No. 3927.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. WHITEHOUSE, proposes an amendment numbered 3927 to amendment No. 3911.

Mr. SPECTER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Friday, January 25, 2008, under ''Text of Amendments.'')

Mr. SPECTER. Madam President, there are 2 hours set aside for this amendment. We have about 24 minutes between now and 4:30, when the Senate will move on to other business.

I have just discussed with my distinguished colleague, Senator WHITEHOUSE, and the managers—Chairman ROCKEFELLER and Vice Chairman BOND—my intent to speak relatively briefly on an opening statement and then yield to Senator WHITEHOUSE and give an opportunity for opponents of the amendment to speak because I think that will tell the Senators and staffs what this is about and perhaps generate more interest and more concern to follow, and then have additional debate at a later time on the remainder of our time.

At the outset, I compliment my distinguished colleague, Senator WHITEHOUSE, who is in his first term in the Senate. I thank him for the work he has done coordinately with me and others on this bill.

Senator WHITEHOUSE brings a very distinguished record to the U.S. Congress. He has served as U.S. attorney for Rhode Island. He served as Rhode Island's attorney general. And he has made quite a contribution to the Judiciary Committee on what is a very complex matter.

Madam President, I ask unanimous consent that Senator LEVIN and Senator CARDIN be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. The essence of the pending amendment is to substitute the U.S. Government as a party defendant for the telephone companies, instead of having the current provision which provides for retroactive immunity to the telephone companies. The bill under consideration would give those companies retroactive immunity and foreclose litigation which is now pending in some 40 cases.

This issue is at the heart of the balance of values between national security and constitutional rights. There is no doubt, at least on this state of the record—where we do not know all of the details as to what the telephone companies have been doing—but it is presumed, for purposes of this argument, and I think accurately so, that what the telephone companies are doing has produced very high-level intelligence for the U.S. Government.

There is no doubt of the importance of high-level intelligence in our fight against terrorism. We sustained 9/11. We fight a deadly enemy around the world—al-Qaida. We want to protect the United States and its people and others, so that high-level intelligence is very important.

At the same time, constitutional rights are very important. I believe the substitution which Senator WHITEHOUSE and I are proposing accomplishes the objective of a continuation of getting this very vital intelligence information for national security and, at the same time, protects constitutional rights.

The essence of the proposal is that the U.S. Government would step into the shoes of the telephone companies, have the same defenses, no more and no less. The Government could not assert governmental immunity because the telephone companies could not assert governmental immunity. The Government could assert the State Secrets Doctrine, just as the it has by intervening in the cases against the telephone companies.

I believe it is vital that the courts remain open. I say that because on our delicate constitutional balance of separation of powers, the Congress has been totally ineffective on oversight and on restraining the expansion of executive authority. But the courts have the capacity, the will, and the effectiveness to maintain a balance.

But we find that the President has asserted his constitutional authority under article II to disregard statutes, the law of the land passed by Congress and signed by the President.

I start with the Foreign Intelligence Surveillance Act, which provides that the only way to wiretap is to have a court order. The Executive Branch initiated the Terrorist Surveillance Program in flat violation of that statute. Now, the President argues that he has constitutional authority which supersedes the statute. And if he does, the statute cannot modify the Constitution. Only a constitutional amendment can. But that program, initiated in 2001, is still being litigated in the courts. So we do not know on the balancing test whether the Executive has the asserted constitutional authority.

But if you foreclose a judicial decision, the courts are cut off. Then the executive branch has violated the National Security Act of 1947, which mandates that the Intelligence Committees of both the House and the Senate be informed of matters like the Terrorist Surveillance Program. I served as chairman of the Judiciary Committee in the 109th Congress. The chairman and the ranking member, under protocol and practice, ought to be notified about a program like that. But I was surprised to read about it in the newspapers one day, on the final day of argument on the PATRIOT Act Re-authorization. It was a long time, with a lot of pressure—really to get the confirmation of General Hayden as CIA Director—before the executive branch finally complied with the statute to notify the full Intelligence Committees. Now, on the other hand, the courts have been effective—and I will amplify this at a later time because I want to yield soon to Senator WHITEHOUSE and give the opponents an opportunity to speak before 4:30. But in the Hamdan case, the Supreme Court held that the President does not have a blank check in the war on terror. Justices held that the President cannot establish military commissions unless Congress authorizes it. In Hamdi, the Supreme Court concluded due process required that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for that contention. In Rasul v. Bush, the Supreme Court held that the Federal habeas corpus statute gave district courts jurisdiction to hear challenges by aliens held at Guantanamo Bay.

Well, this is not Pakistan, where President Musharraf can suspend the Supreme Court Justices and hold the Chief Justice under House arrest. This is America. The balance is maintained only because the courts are open. I believe it would be a major mistake to close the courts on pending litigation when the courts have provided the only effective way to check expanded executive authority, which we have seen in many lives. I will amplify those later, on matters such as signing statements.

But that is the essence of the argument. I am going to yield now to my distinguished colleague from Rhode Island because I think it is useful, as we move forward in the debate, to crystallize the issues. We know Senators and even staff don't pay a great deal of attention until the time for a vote is near, and when we see the essence of the two positions, I think we may create some more interest and have more people join this debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Madam President, I thank the distinguished Senator from Pennsylvania. I consider it a great personal honor to join him in sponsoring this important amendment. He has served with great distinction as a prosecuting attorney for Philadelphia for many years and then has served in this Senate for 27 years with great distinction, making him the longest serving Senator in Pennsylvania's history.

He has chaired the Senate Judiciary Committee, and he has always shown great intelligence and independence. In addition to all that, I am the junior member of the Senate Judiciary Committee, and he also has shown exceptional courtesy and good will toward me, notwithstanding my junior status and notwithstanding my position on the other side of the aisle. So it is with considerable pride and also considerable affection that I join him in supporting this amendment.

We face, as Senator SPECTER said, the critical balance between freedom and security, which will always be difficult to maintain as long as a threat of terrorism looms. As we all know, one of the many difficult issues that balance presents to us is the question of whether to grant immunity to telecommunications carriers who may have assisted the Government in this surveillance program.

On the one hand, the administration has called for a blanket grant of immunity to these companies. On the other hand, others have proposed preserving the status quo. We are proposing a more sensible, practical, middle path that does less constitutional damage and still protects the essential equities involved.

The choice is to give immunity, to stop the litigation, to end the claims against the companies, and take away the plaintiffs' case against them, which is not fair. Nothing yet suggests this is not completely legitimate litigation. The courts who are considering it haven't thrown it out, it is in process right now, and it is not fair to the plaintiffs to up and take away their day in court. Moreover, there is a huge separation of powers problem of a legislature intruding into ongoing litigation, now before a judge, and taking away active claims. We would be taking away plaintiffs' rights and claims, taking away their due process without even providing for the basic judicial finding that the defendant companies acted reasonably and in good faith. That damage suggests that blanket immunity is not a great solution and, indeed, it may even be unconstitutional.

The other choice we have on the immunity question is to do nothing. But consider this: the Government has forbidden the telephone company defendants to defend themselves, claiming state secrets privilege. They have tied the companies' hands behind their backs in this litigation, muzzled them, forbidden them to offer any defense. In my view, that is also not fair, particularly if the Government put these companies into this mess in the first place. If the Government wants to forbid self-defense by these companies, the decent thing for the Government to do would be to step into the lawsuit, and defend on their behalf. The Government should not leave legitimate American companies in the judicial arena, bound and muzzled, unable to defend themselves, and not itself be willing to step in the ring and take over. So it strikes me that doing nothing is not a great solution either.

The solution that fits the problem we face is this Specter-Whitehouse amendment, and it has two very simple parts. One, a judicial determination, confidentially, in the FISA Court, whether these companies acted reasonably and in good faith. That is a very simple determination that can be made with a very small amount of testimony based in many respects simply on the record of what was provided to companies. Second, if they did act reasonably and in good faith, there is then a well-established procedure under rule 25 of the Federal Rules of Civil Procedure, rule 25(c) to be specific, that can substitute the Government for these companies in this litigation.

First, let me talk about the good-faith determination. I hope we can all agree that if the companies did not act reasonably and in good faith, they shouldn't get protection. I hope we can agree on that. We establish a simple procedure for the good-faith question to be answered by the FISA Court. We in Congress should not be the judges of that. We are not judges. Good faith is a judicial determination. This is ongoing litigation. The companies have, of course, asserted to us that they acted in good faith, but that is no basis for us to conclude that, and we surely should not rely on one side's assertion in making a decision of this importance. Most Senators have not even been read into the classified materials that would allow them to reach a fair conclusion. This body is literally incapable of forming a fair opinion without access by most Members to the facts. So we need to provide a fair mechanism for a finding of good faith by a proper judicial body with the proper provisions for secrecy, which the FISA Court has.

Second, substituting in the Government. Well, if it turns out the Government directed the companies to engage in conduct that broke the law, the Government is the proper authority. If the companies acted reasonably and in good faith but ended up somehow breaking the law because of what the Government directed them to do, the real actor is the Government. Lawyers in this body will understand this is analogous to a principal-agent relationship. The Government is in effect the principal, the company acting as directed is the Government's agent, and under principal-agency law, the principal is liable for the acts of the agent.

So the simple solution contained in this amendment follows the law, it is founded in the Federal Rules of Civil Procedure, and it fits the problem we face. Consider: No one has legitimate rights and due process summarily taken away. This is, after all, the United States of America.

Two, if the carriers acted reasonably and in good faith, the Government steps in for them. In fact, the carriers get a judgment in their favor dismissing them from the cases.

Third, no one is forbidden to defend themselves in ongoing litigation. No one is bound and muzzled but forced to stay in a judicial fight.

Fourth, there is no intrusion by Congress into ongoing adjudication, no separation of powers trespassed.

Finally, if the companies acted reasonably and in good faith at the direction of the Government but ended up breaking the law, the Government truly is the morally proper party to the case. So this is not just sensible, but it is right. I hope my colleagues will support this amendment.

I see time is a little short, but let me continue a little bit longer because I wish to expand a little bit on this concern that intrusion by Congress into ongoing adjudication presents a separation of powers problem. Let me go all the way back to why we set up the separation of powers in the first place. I quote U.S. Supreme Court Justice Scalia specifically who said:

> The sense of a sharp necessity to separate the legislative from the judicial power triumphed among the Framers of the new Constitution prompted by a crescendo of legislative interference with private judgments of the courts.

So the question of a legislature interfering with ongoing litigation was the live concern of the Founding Fathers when they separated the powers. In a case called the United States v. Klein, the U.S. Supreme Court threw out a congressional statute that purported to provide the rule of decision in a particular case, saying of this relationship between the legislative and judicial powers:

> It is of vital importance that the legislative and judicial powers be kept distinct. It is the intention of the Constitution that each of the great courts and departments of the government—the legislative, the executive, and the judicial—shall be in its sphere independent of the others.

So I urge my colleagues who are considering this to consider the sensible merits of this amendment, to consider this is the morally right way to go forward, and further, to consider that it reduces considerably the risk that if we go ahead and give these companies this immunity, the companies end up with a lawsuit, they end up with a case and a statute that is thrown out because it is unconstitutional, and in effect we create a snarl rather than a solution for them.

So with that said, I would again like to say how very much it means to me to be cosponsoring this amendment with the very distinguished Senator and former chairman of the Judiciary Committee, Senator SPECTER of Pennsylvania.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Madam President, I am reluctant to ask, but I must, how much time remains before 4:30?

The PRESIDING OFFICER. There is 2½ minutes before 4:30.

Mr. ROCKEFELLER. Wonderful.

Madam President, I simply rise to say I will oppose this amendment and I will oppose it strongly and I think for a series of very good reasons. But in spite of my eloquence and the ability to talk very quickly, I simply cannot do the task in 1½ minutes. So I ask unanimous consent to reserve my right to speak further at the appropriate time before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. BOND. Madam President, with the time so graciously allowed us by the proponents of this measure—and I know it was not intentional—I will only say a couple of quick things. No. 1, the courts are not precluded. The underlying bill, the bipartisan bill, permits lawsuits to go forward against the Government and the Government employees. No. 2, there was notification of the Big Eight—the ranking members and chairmen of the Intelligence Committees and the leaders—when this program was started. No. 3, article 2 does give the President the power to exercise foreign intelligence collections.

I would say to my colleague who has been on the Intelligence Committee, if he doesn't think Congress has been effective in overseeing programs, he has not seen the committee that is chaired by Senator ROCKEFELLER and on which I ride shotgun with him. The Judiciary Committee—if it was not advised, the Judiciary Committee's primary responsibility is not intelligence. That is the Intelligence Committee. We get the sensitive information. We spend a great deal of time. We have reviewed it. We believe it is a disaster for our intelligence collection to have substitution because we would see our most sensitive means of collection exposed. The private parties that might have participated would be put through tremendous economic and commercial harm and subjected potentially to harassment, and perhaps even terrorist attacks, for having worked with us.

Therefore, I strongly urge that our colleagues defeat amendment No. 3927, the Specter-Whitehouse substitution amendment.

Mr. KENNEDY. Madam President, the amendment that I have offered with Senators KERRY and MENENDEZ addresses a serious problem with the FISA bill that we are now considering, and I am very pleased that it has been incorporated into the bill by unanimous consent.

The amendment clarifies that under the new authority provided in this legislation, the Government may not intentionally acquire a communication when it knows ahead of time that the sender and all of the intended recipients are located in the United States. When the Government knows ahead of time that both the person making the call and the person receiving the call are located inside the United States, it will have to get a court order before it can listen in on that call. This is the way FISA has always worked, and my amendment makes sure that the law stays that way.

There is broad agreement that communications known ahead of time to be purely domestic should continue to be governed by the standard FISA rules. Indeed, the Bush administration has repeatedly stated that it does not intend to use the new authority granted under the Protect America Act or this legislation to acquire communications that are purely domestic, without obtaining a court order first. The administration acknowledges that when the Government knows that all the parties to a conversation are in the United States, a specific court order should be needed to intercept that conversation.

I haven't heard a single Member of Congress disagree with this point. But without this amendment, the FISA bill's new authority could be used to acquire purely domestic communications without a court order.

The bill requires the Government's ''targeting procedures'' to be designed ''to ensure that any acquisition . . . is limited to targeting persons reasonably believed to be located outside the United States.'' The problem arises because sometimes the ''target'' of the surveillance may be abroad, but the communications that the Government wants to acquire may occur entirely inside the United States, because the subject matter concerns the target who is abroad. The term ''target'' is not defined in FISA, but the legislative history states that the ''target'' is the person or entity ''about whom or from whom information is sought.'' That broad definition is capable of being interpreted to allow surveillance of people other than a ''target.''

For example, the Government might believe that two Americans in the United States—let's call them Tom and Mary—will discuss a third party who is located outside the country. Under this bill, that third party can be a group, not just an individual, and the Government can obtain a blanket warrant that allows it to spy on everything that group does in the future. Although the authors of the bill have stated this should not occur, the concern is that when Tom and Mary talk to each other, the Government might claim the third party is the ''target'' who provides the legal basis for the surveillance—with the practical result being that the Government could listen in on the conversation without making any showing to any court about Tom and Mary.

My amendment protects innocent Americans by clarifying that traditional FISA rules still govern for communications known to be occurring within the country. The Government could still spy on Tom and Mary—but it would have to obtain a warrant first, with the usual exception for emergencies.

According to the administration, the law already requires this. The administration has said flat out that it will not wiretap purely domestic communications without first obtaining a court order.

But these kinds of statements are no answer when Americans' basic liberties are at stake. ''Trust us'' is not enough.

FISA experts such as David Kris, a highly respected former lawyer at the Justice Department and the author of the leading treatise on FISA law, believe that the legislation is not clear right now. And if the law is unclear, there will be tremendous pressure on the intelligence community to apply it as aggressively as possible, because it is their duty to do everything they can within the boundaries of law.

As Mr. Kris recently stated, even though the Intelligence Committee bill prohibits the targeting of persons known to be in the United States, it ''does not, however, foreclose all surveillance of [purely] domestic communications . . . because surveillance can 'target' an international terrorist group located abroad, but still be directed at a domestic telephone number or other domestic communications facility.''

Mr. Kris has said that his ''principal concern about [this bill] . . . is that it resembles the Protect America Act in allowing surveillance of domestic communications'' without a warrant. This is a radical change to a FISA system that has protected Americans for three decades. If put to a vote, I have no doubt that Americans would reject it.

This concern can't be waved away by the administration telling us that it takes a different legal view. When one of the top FISA experts in the country says that the law is not clear, we should listen.

Promises about how the Government will interpret the law in the future are not enough. If we all agree about a specific policy goal—and everyone should agree that in purely domestic-to-domestic situations, the traditional FISA rules should apply—then we should be very clear about that goal in the legislation we write. Any FISA law that Congress passes may set the rules on surveillance for years to come, and different administrations may interpret ambiguous language in different ways.

My amendment makes clear that the traditional FISA rules apply when the Government knows ahead of time that the communication is purely domestic. The amendment does not add any substantive changes to the law; it adds clarity and certainly where now there is ambiguity and confusion.

Americans deserve to feel confident when they are talking with their friends, neighbors, and loved ones inside the United States that they will not be spied on without a warrant. Bringing clarity to this area of the law is good for Americans' liberties, and it is good for national security. I congratulate my colleagues for adopting this amendment.

RECOVERY REBATES AND ECONOMIC STIMULUS FOR THE AMERICAN PEOPLE ACT OF 2008

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5140, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5140) to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits.

Pending:

Reid Amendment No. 3983, of a perfecting nature.

Reid amendment No. 3984 (to amendment No. 3983), to change the enactment date.

Motion to commit the bill to the Committee on Finance, with instructions to report back forthwith, with Reid amendment No. 3985.

Reid amendment No. 3986 (to the instructions of the Reid motion to commit), of a perfecting nature.

Reid amendment No. 3987 (to amendment No. 3986), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, could the Chair explain the unanimous consent order under which we are operating?

The PRESIDING OFFICER. There is 45 minutes, evenly divided, to be followed by 30 minutes, evenly divided and controlled by the two leaders prior to a cloture vote.

Mr. COBURN. Madam President, I ask unanimous consent to be allotted 10 minutes to discuss the fiscal stimulus package.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, I understand that the Senator's time will be charged to the Republican side.

Mr. COBURN. Absolutely.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, we have heard a lot in the press, and we have certainly heard a lot from our own Finance Committee, and we have seen what the House passed in terms of the stimulus package.

I think, once again, in our hurry to address a problem, we have not asked: Are we fixing the right problem, the problem in connection with the House leadership passing a bill that will spend $150 billion. One of the first questions we ought to ask is, Where is that money coming from, the $150 billion? Nobody can dispute the fact that we are going to borrow that from our grandchildren; we are going to go to the markets and borrow the money to stimulate our economy. Nobody will dispute the fact that there is very little payback into the Treasury, in terms of tax collections, from this stimulus plan.

The facts as they are, we had an overheated housing boom. We can deny economic reality, but until we mark the market—the overinflated cost that has extended credit in our country—and recognize that is going to have to be paid for, we are not going to walk out of this slowdown we appear to be facing. The reality is that the model is the Japanese banking industry: When they refused to recognize the losses, what it did was impact their economy for 10 years. So the realities are that there has to be an economic price when we have an economic excess. Our job should be to make that as easy on our economy as we can, thinking about the future of our economy.

Now, all the options that have been presented, when scored in the long term, have very little beneficial effect for the economy other than the psychology we are putting through. The reason it is important to discuss alternatives is because there is a way, which is proven in economics, proven in capitalistic societies, in free market societies, where you can generate stimulus and revenue back to the Government so that, in fact, you solve the right problem, the real problem, and you don't bankrupt your children further, which is what we are going to do whether we pass the House bill or the Senate bill. We are going to steal $150 billion or $190 billion from our grandchildren. I think we ought to think twice about that. Do we really, as senior citizens, want to steal $600, to $800, to $1,200 from our grandchildren for us today? Do we want to do that? Is there another way in which we can stimulate our economy without stealing from our kids and ultimately putting the money back in so that our children don't have to pay for this stimulus package? There is. There are a lot of economic theories and experience in this country that prove that.

So let's talk some about what we should be doing that we are not. Instead, we are pandering to people, thinking they are going to get $600 or $800, and we don't have any idea other than to think a third of that money might have a stimulus effect, but it will have a negative effect in terms of what our kids have to pay back.

One thing we can do is create certainty about economic decisionmaking. We can extend the Bush tax cuts. We can extend them so people will continue to make positive decisions based on a tax rate they know is there rather than one they know is going to go away in 2 years, which will limit their investment.

Second, we can lower corporate tax rates. We now have the second highest corporate tax rates in the world. That hasn't been part of any discussion. We know that when we lower corporate tax rates, we see increased investment, which increases the tax revenues for the country, and we also see economic growth. So there is a positive there, but it is not complete. There is a cost associated with that, but at least there is some feedback. But we have not considered that.

We have not reduced the capital gains tax rate on corporations—the people who invest great sums of money on the basis of the fact that if there is a capital gain, if we were to lower that, they might invest more or they might recognize the gain they have today, consequently, even generating taxes. We can index capital gains for inflation. That creates a stable investment environment whereby business decisions will invest in capital, create jobs, which create salaries, which create income, which create tax revenue.

We can markedly advance—much more so than we have done in this bill—depreciation schedules if we want to have an impact. We could go to full expensing for capital equipment forever. We don't have to stop it now. What that would do is create investment in capital goods in this country, which would create jobs, which would raise wages, which would create incomes, which would create tax revenues for the country.

There are other things we can do besides just send money out the door. We can establish a repatriation window for corporate taxes overseas. The best way to not ever have to deal with this again is to have a corporate tax rate equivalent to what is going on in the rest of the world—have one at 25 percent instead of 35 percent so that we, in fact, are competitive worldwide, so that corporations don't refuse to bring income they have earned overseas back to this country because we have an excessive tax on it, so they decide not to do that.

Finally, what we can do is make the Small Business Administration work. Seven years ago, the impact of Government regulation on small business was less than $4,000. It is $7,400 per employee. That is the impact of the Federal Government. That is not the taxes you pay, that is the impact of the regulations in terms of the cost impounded onto small business by the Federal Government.

I will end with talking about the budget that was just submitted by the administration. We are going to spend probably $150 billion or $190 billion, and we are not going to pay for it. We are not going to reduce any of the wasteful spending, including the inappropriate payments in Medicare, and there is another $40 billion in fraud. Medicaid has $30 billion worth of fraud and another $7 billion in improper payments. Food stamps has $6 billion worth of improper payments, not counting the fraud.

There is nothing associated with fixing what is wrong with the Government so that the American people get value from it. We are going to throw money at a problem rather than secure the future for our children and grandchildren. We can do better. We ought to do better. We should not say we are just going to throw money at the problem.

Let's make long-term structural changes in the Tax Code that raise the opportunity for our children rather than lower it by putting debt on their shoulders. Let's make the long-term changes and tough choices of eliminating programs that aren't working

effectively, or let's refine programs that are wasteful, not efficient, and loaded with fraud. Let's eliminate the wasteful programs that account for $150 billion of money spent each year. Let's get rid of the $30 billion in waste at the Pentagon. Let's get rid of the $3 billion we spend every year maintaining buildings the Pentagon doesn't want. We don't have a way to get rid of them, but we don't have the courage to change the law.

There are all kinds of ways to save a couple hundred billion dollars a year, but it means you have to ruffle some feathers. It is time we do that and do the hard work, rather than the easy work.

Thank you for the opportunity to speak in terms of what I think is a long-term way to resolve this economic trough we appear to be facing. I am not confident we are going to do it the right way. I think we are going to do it the politically expedient way, which helps people get reelected but doesn't fix the real problem. To me, to my regret, that is a sad misnomer for this body.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the book of Leviticus teaches: ''Rise in the presence of the aged, show respect for the elderly, and revere your God.''

Today, the Senate can show respect for America's elderly. Today, the Senate can extend needed stimulus checks to 20 million seniors whom the House left behind.

America's seniors have earned the right to get stimulus checks, every bit as much as other Americans. They worked hard all their lives. They paid a lifetime of taxes. They contribute to the economy.

And seniors can use the money. And because they can use the money, seniors are excellent targets for economic stimulus checks. Because they can use the money, they will spend it quickly.

Americans over age 65 spend 92 percent of their incomes. Households headed by a person over age 75 spend 98 percent. That is higher than any other group over the age of 25. And that means that a check sent to a senior will have a greater bang for the buck in terms of helping the economy.

The Finance Committee amendment would help 20 million seniors who were left out of the House bill. The Finance Committee amendment would provide seniors with rebate checks of $500. The underlying House bill would not help those 20 million seniors.

And the Finance Committee amendment would also provide rebate checks for 250,000 disabled veterans who receive at least $3,000 in nontaxable disability compensation. The Finance Committee amendment would make them eligible to receive the same $500 rebate as wage earners and Social Security recipients. The Veterans Administration would distribute the rebate. The House bill would not provide rebate checks to disabled veterans who don't pay taxes.

And the Finance Committee amendment would provide an additional 13 weeks of unemployment insurance. And high unemployment states would qualify for an extra 13 weeks. The House bill does not provide an extension of unemployment insurance.

Almost a million more Americans are unemployed today than were a year ago. And 69,000 additional unemployed workers filed claims for unemployment insurance just last week.

CBO found unemployment insurance to have a big bang-for-the-buck. It acts quickly to boost the economy.

I heard my friend from Oklahoma. Frankly, all of the big ideas and great ideas are ideas we cannot address at this point. We have to act now, immediately. The President wants us to act now with the stimulus package. The House wants us to act now. We in the Senate have to act now; that is, we have to get some rebate checks out to the American people so they can spend those checks, those dollars, and prime the economy.

The Chairman of the Federal Reserve System has done his part by lowering interest rates to help keep our economy from going into recession, to help keep our economy from falling into high unemployment rates, because we are facing a time of slow growth, primarily due to the problems in the housing markets, the subprime problems, which cascade into securitized loans and which, frankly, were peddled in a way that caused a lot of investors in our country to not know, frankly, what they were investing in.

The Chairman of the Federal Reserve System, Mr. Bernanke, also wants this package now. He knows what he is talking about because he is, after all, probably the best economist in this country at the moment. The Chairman of the Federal Reserve System is saying that, in addition to lowering rates, we should have the stimulus package passed.

We on the Senate Finance Committee did improve upon the House-passed bill. We decided not to replace it but improve upon it, so that any changes we make can be easily folded into the House-passed bill, and get the final product on the President's desk very quickly. Nobody wants to hold up the stimulus checks or hold up stimulating the economy. So I am quite confident we will get this resolved quickly, with improvements.

The research organization economy.com found that each dollar spent on extended unemployment insurance benefits generates $1.64 in increased economic activity.

Don't forget, we passed a bipartisan stimulus bill after 9/11, and that contained an extension of unemployment insurance. The President signed that bill. We should do the same now.

Further, we are adding a provision—it sounds technical, but it is simple—that would extend the carryback period for net operating losses for companies from 2 years to 5 years. Very simply, the bonus depreciation and expensing provisions help companies that make a profit—many companies during this low economic growth time are not making money—it seems fair they be included in the stimulus package, and that is why it is very important that provision be enacted.

This provision will help the housing industry, especially homebuilders, from going belly up. There were a lot of loans made that should not have been made. The more we can show to the American people that we are thinking about them, that we are trying to add a stimulus to the Nation's economy, the better, including showing to the housing industry that by making a change in the tax laws they can carry back current losses to earlier profitable years so they can make payrolls and not have to go belly up.

I might add, we also in the Senate Finance Committee package—the House does not do this—tighten up provisions that make it extremely difficult for illegal aliens to get these rebate checks. That is very important. It is not in the House bill. We have that provision in the Senate bill.

Finally, this is clearly the right thing to do. It is clearly right that 20 million seniors and about 250,000 disabled veterans be included in the rebate check program. We do that in our bill. There are some other provisions, but that is the core of what we are doing here.

Clearly, the House will accept these changes, there is no doubt about that. The President can sign it, and we can get this rebate program up and going. We can get it passed very quickly.

I yield to the Senator from New Mexico, Mr. DOMENICI, for 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I rise to outline my reasons for supporting the Senate Finance Committee stimulus package.

I have reviewed various proposals carefully. Clearly, the House-passed package is simply unacceptable. I predict that the House would not pass that bill again now that its flaws have been revealed. By denying rebates to Social Security recipients and veterans, yet giving it to illegal immigrants, the House has produced something most Americans would reject.

I understand that in the rush to produce the package, the House may not have completely vetted each and every provision. So when I say it is simply unacceptable, I believe the way I have outlined what probably happened is true. They did a terrific job in a short period of time. It is just that the product, unfortunately, had to go somewhere else, it had to come here, and in coming here the good staff and others had to look at it in its entirety again, and they found what I described and the chairman of the full committee described.

I say to the chairman of the full committee, I am not on this committee, but I follow it, and I know what is in the final package.

Yesterday, the Institute for Supply Management reported that business activity in the nonmanufacturing sector of our economy contracted. That is the part of the economy that has been holding everything together. It had not been contracting; now it has. The level of that key indicator is now at its lowest level since 2001. Right after the terrorist attacks of September 11, the stock market dropped 370 points and investors continued to move into ultrasafe areas, such as Government bonds.

Last week and earlier this week, we had more information about a devastated housing industry and the announcement of bankruptcy of a major home building firm. Last Friday, the Government reported that the Nation suffered a decline in job creation for the first time in 4 years.

In short, we clearly face the possibility of a recession. Worse, this recession may dovetail with the present near freeze in credit markets. And when that happens, none of us knows how these two things may interact and what it may bring to us.

A prudent person would do as the House has done and has been proposed by the Senate and pass a stimulus package that will get money into the economy as soon as possible and will target particular sectors especially hard hit.

The question isn't whether we should have a stimulus package. The question is, which do we prefer? The first thing to look at is the cost. The Senate Finance Committee package, as amended, will cost $158 billion. The House-passed package was $146 billion. In a $14 trillion economy, a difference of $12 billion is insignificant, almost a rounding error in an economy clearly the size we have. Both packages cost about the same.

Second, it seems to this Senator that speed is the important ingredient. Therefore, if we invoke cloture on the Senate Finance Committee package before us, we can move quickly and move toward a Senate-passed package.

Third, I believe the Senate Finance Committee bill spreads the rebates, including veterans and Social Security recipients, and making sure no illegal immigrants receive the rebates.

Fourth, the committee recommendations will give a strong boost to housing and home building through its net operating loss provisions. We cannot ignore the weight that the collapsing housing market and home building sector have had on our economy and loss of jobs.

It used to be common knowledge that you would not have a robust American economy without a robust home building sector accompanying it. That may still be true. We have had a robust housing economy until now.

Finally, I believe the passing of the energy tax provisions in this Senate Finance Committee proposal as soon as possible is important. We can pass the provisions by invoking cloture, not waiting until later in the year to try to pass them on a different vehicle.

I have concluded that I will support cloture on the Senate Finance Committee proposal, recognizing that a conference with the House is likely and that both Chambers will be able to fine-tune the ultimate package and get it quickly to the President. I hope that is the case. The House had its turn. We will now have our turn. Then there will be a conference which will have to be called in any event, but they will now be operating under the gun, meaning getting something done quickly or they will lose all credibility.

I am hopeful I have chosen the right path. I know it is a difficult one for many who think I should do otherwise. I respect all of them, but I made my decision on what is best for New Mexico and what is best for America as I see it.

I thank the chairman for yielding me time. I yield the floor.

Mr. BAUCUS. Madam President, I commend and thank the Senator from New Mexico. He is making a courageous decision. More often than not, when somebody makes a courageous decision, it clearly is the right thing to do. It is easy to not make the courageous decision. Sometimes it is hard to make a courageous decision. He is making a courageous decision. I thank him and I know the people of New Mexico are proud of him for standing up and doing what he is doing.

The Senator from Arizona seeks recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, first, let me say that one of the points made by my dear friend from New Mexico is backward. We need to deal with this issue in a speedy fashion. There is one point that unites everybody with regard to this stimulus package: If it is not done quickly, its stimulative effect diminishes effectively, and there is a point at which it will not have the stimulative effect people would like. Therefore, speed is of the essence.

One of the points about the Finance Committee package is, of course, if it were to pass, we would have to go to a conference committee between the House and the Senate which would obviously delay this process. I don't know how long it will take to get to conference or how long a conference committee will take, but it could be a lengthy process taking us beyond the February recess which means that, clearly, we will be talking about weeks to get this bill to the President.

Were we, on the other hand, to follow Leader MCCONNELL's advice and reject the Senate Finance Committee package and move to a modified version of the House-passed bill, we could get that to the House which could pass it, send it on to the President, and be done with it. That can all happen, frankly, by the end of this week.

In terms of the issue of speed, it would behoove us to reject what has been called the Christmas tree package out of the Senate Finance Committee which substantially raises costs, spends more money, is much more complicated than it would be to take up the House-passed bill which can be done more quickly.

I don't mean to be pejorative when I talk about a Christmas tree, but that is pundits talk about a bill that starts out relatively small, but because Members have favorite adds to make to it, which is another favorite pundit phrase, things we like to add to the bill, we end up with a bill that started out small but ends up looking like a tree with a lot of ornaments on it.

Remember when Speaker PELOSI and Leader BOEHNER and the President struck the agreement they did that passed the House with 38 negative votes, there was a recognition this needed to be done quickly and cleanly.

There were just three working parts to this legislation. Members of the House had a lot of other great ideas. There are a lot of other items they would have wanted to put on it, but their leaders convinced them to get bipartisan support. It was very important to keep the package trimmed down to the point where Secretary Paulson believed it would actually benefit the economy and not add extraneous spending and elements.

What happened when the bill came to the Senate Finance Committee on which I sit? I haven't added it up, but some have said there is $40 billion in additional costs, in additional spending, and I will talk for a moment about some of that spending. Those who are concerned about adding to the deficit need to be concerned about the additional cost of this bill. Some of that spending has to do with some tax credits for various kinds of businesses that have no stimulative effect whatsoever and are being done to either please certain legislators or to find a vehicle for something.

For example, there is something like $100 million that is owed to some coal companies in the United States. They have not been able to find a legislative vehicle to get the money appropriated so they can be paid their $100 million. So this was thought to be perhaps the right kind of vehicle to do it on.

Apparently they are owed $100 million and we need to send it to the coal companies, but that has nothing to do with stimulating the economy. It is payment for a past debt for a court case. But one of the Members wanted it in this bill and, as a result, it got put in the bill. That is not a stimulus package for the American people.

Then there was a group of tax breaks. What are some of the tax breaks for businesses? One is a tax break so we can build more efficient homes. One of our problems in our economy is we have a glut of housing on the market right now. So we are going to make a tax break so folks can build more

homes to put on the market to add to those that already exist, as well as commercial buildings.

There has been a lot of talk about the rich getting too much in this package. One of the tax breaks is to remove the income limit for people who can now, under the Finance Committee bill, take a tax break for investments they have made in marginal oil and gas wells. Maybe that is a good idea. I don't know. But it clearly has no place on a stimulus package.

My point is that the Finance Committee did a variety of things which Members wanted done. They may or may not represent good policy, but they have nothing to do with the stimulus and simply add costs to this bill. Remember, this is all borrowed money. So it takes us further into a deficit situation.

One of our colleagues on the committee pointed out that these energy tax breaks actually are part of a larger bill, which I support, called the extenders package and, indeed, that is true. What is the extenders package? The extenders package is a package of legislation that each year we pass without question to ensure that various kinds of tax provisions remain in the Tax Code, such as the research and development tax credit and a variety of provisions such as that. I asked for unanimous consent to offer that in committee and it was rejected. We do know, however, for a certainty, that is going to pass this Congress. So these energy provisions, even to the extent people want them, are going to become law, but they don't have to be put in the stimulus package to drag it down.

The other big expense added in the Finance Committee was the extension of unemployment. The Secretary of the Treasury and other people in the administration will tell you, in their view, this stimulus package could add anywhere from a half percent to three-quarters of a percent of growth to the GDP, if it is done very quickly and very cleanly. However, adding the unemployment extension, $30 billion or so to it, would eliminate the effect of a stimulus that otherwise would be provided. So the irony is that by adding the unemployment compensation extension provision here, we actually remove whatever stimulative effect there is in the bill, and we are right back to a bill that ends up, as I said, looking like a Christmas tree.

Right now, unemployment nationwide is 4.7 percent. We have never extended unemployment benefits when unemployment was at that low a level. It has always been in the neighborhood of 6 percent or above, maybe a little below that, that has caused us to extend unemployment benefits. So there may well come a time, if we can't get the economy moving in the way we want it to, that there would continue to be stress in the employment sector and people might actually begin losing more jobs, in which case we might have to extend it. But the best way to prevent that from happening is to do sensible policy in the meantime to try to obviate that situation. And the Secretary of the Treasury and the President and the House of Representatives clearly believe the best way to do that would be to pass the stimulus package that doesn't have this additional $30 billion in unemployment extension added to it.

The final point I wish to make is that there is some concern that there are politically popular things in the Finance Committee package and it is hard to vote against those politically popular things. I think the Senator from Montana made a good point a moment ago in reference to a different matter, that when you do something as a matter of conscience, and it is hard to do, usually it represents good policy. This is a case where the House of Representatives was willing, on a bipartisan basis, under the leadership of Speaker PELOSI and Leader BOEHNER, to put together a package, with the administration, in the kind of bipartisanship our constituents would like to have us engage in more often, in order to pass a bill quickly, that could be sent to the President quickly, and they did that even though I am sure many of them were tempted to add all kinds of other politically popular things to it. Now the attention turns to the Senate, and are we acquitting ourselves as well? I daresay not, if this Christmas tree package from the Finance Committee is adopted on the Senate floor. Instead, our constituents will look at us as the folks who slowed it down; we added a bunch of spending to it.

The American people are already skeptical that getting a $500 or $700 rebate check is going to help stimulate the economy. But clearly they are going to look at the additional spending, the increased hit to the deficit, and wonder whether we were simply acting in a political way rather than in a way best for the country.

So my view is we would be far better served to do what is the best policy, and that is to reject the Senate Finance Committee package as too much, more than the traffic can bear in this case, and to go back to the version of the House of Representatives, which would be modified ever so slightly, to send it back to the House to immediately pass it and on to the President and get this done.

My personal view is the kind of spending that is involved in the Finance Committee package will actually act to the detriment, not to the benefit, of stimulating the economy, and that is why it should be rejected.

In a few moments, we are going to have a chance to vote on this, and I hope my colleagues will vote no on the motion for cloture to bring up the Finance Committee-passed package of the stimulus bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I have a number of Senators seeking recognition.

I yield 2 minutes to the Senator from Arkansas, Ms. Lincoln; 2 minutes to the Senator from Ohio, Mr. BROWN; 2 minutes to the Senator from North Dakota, Mr. DORGAN; and 2 minutes to the Senator from Minnesota, Ms. KLOBUCHAR.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Madam President, a special thanks to the chairman for all his hard work.

As we look across this great Nation, we all understand our economy needs some help, and that is why the Senate Finance Committee quickly took up the economic stimulus package which the House and the administration had put out there. I have to give an incredible compliment to our chairman and ranking member, Chairman BAUCUS and Senator GRASSLEY, who went about this in such a thoughtful way, making sure there was no pride of authorship but recognizing what we had to do was to improve on this bill, to improve on what the House had done in such a hurried fashion, in order to be sure we didn't leave people out. This is very thoughtful with respect to the economy and the long-term debt issues out there, to keep a package that was small and reasonable, yet was comprehensive for the task that it had.

The package Speaker PELOSI and President Bush put together was a good start, but, unfortunately, there were some very important changes that needed to be made, and most notably some very hard-working and deserving Americans were disqualified from the stimulus rebate under their proposal: our seniors living on Social Security income and our disabled veterans. Why in the world would we want to leave behind this group of such important Americans—fabrics of our American family, people whose backs this country was built on and protected by—20 million seniors and at least a quarter of a million veterans who we know should qualify? The fact that there are disabled veterans who might qualify for that rebate is certainly reason enough to make sure we go back and get it right. I have no idea why the other side would not want to do that.

This is not the only thing we intend to do to stimulate the economy, but it is the jolt we need. The Senator from Oklahoma was worried it was the only thing. No. No one thinks this is the only thing we are going to do. We are going to follow with a farm bill, which will put an immediate stimulus into our rural areas. We will be looking at the energy tax package and a host of others—No Child Left Behind, which has been underfunded a tremendous amount.

The Senate Finance Committee took action quickly to address the inequities of the Pelosi-Bush package, and I am glad they did. The chairman and

ranking member did an excellent job, and I hope my colleagues will recognize we have a one-time shot at making sure the Americans understand what it is we are doing: stimulating and jolting the economy and making it fair.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator's time has expired.

The Senator from Ohio.

Mr. BROWN. Mr. President, I appreciate the words of the Senator from Arkansas. They are good words.

We have an opportunity to both jump-start our economy and solve the problems staring us right in the face. It is the difference between investing in our Nation's economy and investing wisely in our Nation's economy. Of course, we should invest wisely.

We have an opportunity to put money into the pockets of almost every American or just some Americans. We can exclude retirees, we can exclude disabled veterans, or we can include them. Obviously, we should include them.

The Reid amendment incorporated in the Finance Committee proposal sends rebates to the homes of 21 million senior citizens, 250,000 disabled veterans, and thousands of unemployed who don't get a dime in the House bill.

Now, some decided they wanted to label this bill a Christmas tree. It is always what you do if you don't like the provisions in something. Anyone who thinks it is Christmas morning in these households is sadly mistaken.

The Reid amendment is inclusive and sends money to individuals who will spend it. In a stimulus package, you stimulate the economy, and in times of recession you help those who have been hardest hit by the recession. It is smart and it is right.

The Finance Committee package provides extended unemployment benefits for those who are looking for jobs in a sluggish economy. Thousands of Ohioans lost their jobs not because they wanted to, but they have lost their jobs and they are looking for some help as they try to return to the workforce. Economists have confirmed that is the most potent strategy for stimulating the economy. You put money into the economy to stimulate the economy, you particularly put money into the pockets of those who will spend it—disabled veterans, senior citizens, and unemployed workers who need extended benefits. It makes sense and it is the right thing to do.

I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are required from time to time to make tough votes in the Senate, but this isn't one of them. This is not a tough vote. The question is, Shall we try to stimulate the economy? The answer, clearly, is yes. I think most people feel we should do that.

So then, if we are going to give a rebate, some kind of rebate to people who should get the rebate, perhaps we should think of it in terms of a family sitting around a supper table and they are talking about who is going to get this rebate. So somebody says: Well, you know what, let's make sure grandpa and grandma don't get it. Let's not give grandpa and grandma a rebate. They don't need to be in it. And by the way, Uncle Carl is unemployed. He doesn't need it. He ought not get a rebate. Or Cousin Ralph, he is a disabled veteran. He is not going to need a rebate.

Do you think any family sitting around a supper table would make those choices; that they are going to throw grandpa and grandma off the train and the disabled veteran who served this country and put his life on the line?

So here is the deal. We are told by some: Well, you know, they haven't earned income, so, therefore, they are not going to qualify for this rebate. Oh, really? You haven't earned your Social Security check? Seems to me that is a lifetime of earning. You didn't earn your disability payment? You earned it by putting your life on the line for this country.

So let's include the 20 million people who are senior citizens, many of whom live near poverty trying to stretch their reasonable income—in many cases a very small income—through the month to pay for both food and medicine. Let's include senior citizens, let's include veterans who are being paid veterans disability, who otherwise would not be included.

And let's do what we have always done during economic downturns: Let's extend unemployment benefits. That is the economic stabilizer we have always used. Let's do the right thing and vote for the finance bill and move it into conference. Let's do that now.

This is not a tough vote. We know what the right thing is.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, for 8 years, I served as the chief prosecutor for Minnesota's largest county, and we had something we said when we were working on white-collar cases. We said: Follow the money. Follow the money. Is it going where it is needed? That is what I ask today. I would say with the Senate finance package it is.

I hope that as Congress works on this package, we will work to redirect the money to new priorities for America. At the same time, the urgent need for America to get our economy moving forward again is deep and it is long. I saw it last month, when I was touring around our State, visiting 47 counties, visiting solar panel factories down in southern Minnesota, up at a turkey processing plant, and I can tell you people want to move forward with this economy, but they feel our Government has not been supporting them. That is why we put together the Senate stimulus package, which is targeted, which is temporary, and which is going to be timely.

I know we are all going to get this done, but I believe it is very important we not neglect the seniors, 600,000 seniors in Minnesota. I have always believed this is a country where we wrap our arms around the people who have been there for us—our seniors and disabled veterans. When these guys signed up for war, there wasn't a waiting line. Why would we put them at the end of the line when we are looking at these rebate checks?

So I believe it is important we move forward with the Senate finance package, which does some very good things, as the Presiding Officer knows, for the State of Colorado, to promote energy—renewable energy, and wind and solar—and I wish to move forward with it. But I believe that long after these rebate checks are cashed, we are going to have to change it for the long term. This means rolling back those tax cuts for the wealthiest people, making over $200,000 a year, investing in our infrastructure, and moving this country in the right direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, let us remember that the stimulus package we are considering is a plan agreed to by the Democratic Speaker of the House, the Republican leader of the House, the President of the United States, and about 400 Members of the House. It is one that is timely, targeted, and temporary which will help people keep more of their own money and help small businesses to have more money to create jobs.

What began as a package to stimulate the economy in the House of Representatives has become an excuse for spending money in the Senate. That is why I hope we will reject the Senate Finance Committee proposal. It is too expensive, spends too much money, and it doesn't stimulate. The goal should be to move quickly, to show the American people we can act in a bipartisan way and get a good result that is to their benefit. The Finance Committee proposal does not do that.

I spoke with Senator MCCONNELL, who suggests we simply amend the House bill by adding the seniors and the disabled veterans and send it back, send it to the President, and show the American people we can move promptly to give a boost to the economy.

I thank the Chair, and I yield the floor.

Mr. KENNEDY. Mr. President, I commend Senator REID and Senator BAUCUS for their leadership in getting stimulus legislation to the floor so quickly. It is not a moment too soon. In recent weeks, the many warning signs of a troubled economy have turned into loud alarm bells that we cannot ignore.

Last week's worrisome GDP figures show that economic growth has ground to a near halt. Savings are plummeting. Debt is rising. The Fed has cut short-term interest rates more rapidly

than at any time in its history. For the first time in years, we are losing more jobs than we are producing. It is clear that we are facing an economic crisis that will present enormous challenges in the months and years ahead.

This crisis will affect every man, woman, and child in our country, but it will be particularly hard on the millions of families who are already struggling who are having trouble finding work, heating their homes, and paying the mortgage. For these families, a recession isn't just part of the business cycle—it's a life-altering event from which they may never recover.

Already far too many families are on the brink. Unemployment has skyrocketed more than 7.6 million Americans are looking for work but can't find a job. Foreclosures are rising 200,000 families each month are at risk of losing their homes. Bankruptcies soared by 40 percent last year, and experts predict they will rise even faster in 2008.

Our actions today are vital for the entire economy, but they are most critical for these struggling families. Our decisions will help determine whether they keep their homes, whether their teenagers stay in college, and whether their children go to bed hungry.

The current recession is a major turning point for our country. We have to choose a path out of this crisis, and the path we choose will determine the kind of America we will be for years to come. Do we choose to help some, or do we choose to help all? Do we choose a path of shared prosperity, or a path that leaves countless hardworking families behind?

These are questions of basic fairness, and the American people understand fairness. They don't want to see their friends and neighbors who are struggling get left behind. They want us to do what is right for all.

Today we have the opportunity to take a few basic steps forward to demonstrate our commitment to a fair economy.

First, we have to tackle unemployment. It is clear that no matter what we do to boost economic activity, we will continue to have a significant unemployment problem for at least the next 2 years. Goldman Sachs predicts that the national unemployment rate will rise to 6.5 percent by the end of 2009. Many States around the country are already struggling with high unemployment. Michigan's unemployment rate is 7.6 percent. South Carolina's is 6.6 percent. Ohio just hit the 6 percent mark as well.

Workers who lose their jobs are having much more trouble finding work now than before the last recession. Today, 18 percent of workers have been looking for a job for more than 26 weeks, compared to only 11 percent in 2001. This problem is affecting workers across the economic spectrum even those with college educations and years of experience can't find work. There are nearly two unemployed workers for every job opening across the country.

Because it is becoming much harder to find a job, many more families are finding that our unemployment insurance system doesn't provide enough support. Across the country, 37 percent of workers are running out of benefits before finding a job, and more will follow as the recession deepens. Mr. President, 2.6 million people ran out of benefits in the year ending in October of 2007 that is far more than before the last recession.

These shocking numbers represent real hardship for millions of hardworking people across the country. It is all too easy for a job loss to turn into a financial crisis, and many families never fully recover. In the last recession we saw the real impact of unemployment on working families parents cutting back on spending for their children, or even pulling older children out of college to cut back on expenses. We saw teenagers who should be in school forced to take jobs to help support their families.

To prevent this downward spiral, we must act immediately to shore up the safety net for families struggling to find work. These workers have paid into the system for years. It is wrong to abandon them when they need our help the most.

The Senate bill is a major step forward. By extending unemployment benefits for up to 13 weeks, and providing as much as 13 additional weeks of benefits in high-unemployment States, we provide an immediate boost for our economy. And, at the same time, we help working families weather the storm.

Economists agree that extending unemployment benefits is a powerful, cost-effective way to stimulate the economy. Every dollar invested in benefits to out-of-work Americans leads to a $1.64 increase in growth. That compares with only pennies on the dollar for cuts in income tax rates or cuts in taxes on investments.

I hope that all of my colleagues will join me in supporting an extension of unemployment insurance benefits. It's an essential solution that will jumpstart our economy and help families in crisis get back on track.

Unfortunately, jobless families are not the only ones facing tough times. Millions of families today are facing a ''perfect storm'' of high costs and low wages. Every bill that comes in the mail just adds to the flood, until everyone ends up completely overwhelmed.

Working families are being swamped by the extraordinary increase in the cost of living. On President Bush's watch, the price of gas is up 73 percent. Health insurance costs are up 38 percent. College tuition costs are up 43 percent. Housing costs are up 39 percent. Yet in the face of these skyrocketing costs, employees' wages have been virtually stagnant, rising only 5 percent. Family budgets can no longer make ends meet, and families across the country are feeling the painful squeeze.

In the face of these economic pressures, workers are struggling to keep their families warm. The winter has been bitterly cold in many parts of the country, and the cost of heating oil is rising so rapidly that it is impossible to keep up. Since last year alone, the price of a gallon of heating oil has increased by more than 40 percent. A typical household may have to spend $3,000 or more on heating oil this winter.

Our Senate HELP Committee held a field hearing on fuel assistance in Boston last month. One of our witnesses was Margaret Gilliam, a senior citizen taking care of her grandchildren in Dorchester. She has already spent $4,000 on heating oil this winter, which is nearly as much as she spent all last year, and there are still 6 or more weeks of winter to go.

She told us that she tries to make each Social Security check stretch by asking her fuel company to deliver just 50 gallons at a time, because she can't afford to pay to fill her tank. Most often, heating oil companies will not deliver less than 100 gallons.

Even for those fortunate enough to have fuel assistance under LIHEAP, the benefits will cover less than a third of these costs. Most households won't get any help at all—of the 35 million households eligible for fuel assistance nationwide, fewer than 6 million receive these benefits.

The high cost of basic essentials forces families to make impossible choices between paying for fuel, paying for groceries, paying for health care, or paying their mortgage. If parents choose to keep their children warm and fed, they risk losing their home. The lack of even a small amount of assistance—just an extra 100 or 200 gallons of fuel oil—can mean the difference between security and homelessness.

There are simple steps we can take to end this ''perfect storm.'' One of the most important is the provision in the Senate bill providing additional home heating assistance for families struggling to stay warm this winter. Mr. President, $1 billion in additional LIHEAP funding will help 2.8 million families pay their heating costs and make it through the winter. Helping families meet this basic need is also one of the quickest ways to jumpstart the economy. An increase in LIHEAP benefits takes as little as 2 weeks to get to the pockets of working families.

This year, we provided a significant increase for LIHEAP. But it is far from enough and we still have a long way to go to get to the program's authorized level of $5.1 billion.

It has been said that some people know the price of everything but the value of nothing. How else can you explain the administration's latest budget request which cuts the program by 22 percent?

LIHEAP represents a tiny fraction of 1 percent of the entire Federal budget.

Yet it does so much for those most in need.

Programs like LIHEAP are the best economic stimulus money can buy. But even if they werem not, we would still have an obligation to support them—simply because it is the right thing to do.

Finally, there is widespread agreement that we need to put money into workers' pockets to encourage consumer spending that will boost our declining economy. The Senate bill includes a tax rebate to do just that.

In order to create an effective stimulus, any tax cut must be designed to give the money to those who are most likely to spend it immediately—middle and low income families who are strapped for cash because of these dramatically higher costs.

These families are the ones who need the help the most, and the dollars they receive from a one-time tax cut will be quickly spent. The money will be used to buy things they need but currently cannot afford. In contrast, wealthier taxpayers already have the money to purchase what they need. A tax rebate for them is much more likely to be deposited in their saving accounts than spent. Unless the tax cut is spent, there will be no increase in economic activity generated.

That is precisely what the rebate proposal in the Senate bill will do—provide direct assistance to the millions of working families who are feeling the squeeze of this economic downturn the most. They work the hardest, and they deserve our help. They are also the ones who will spend the money most quickly, for necessities they otherwise couldn't afford.

The Senate package also includes needed relief for seniors and disabled veterans. Both of these populations live on fixed incomes. Rising prices means a choice between buying food or needed medication. These Americans have sacrificed so much and worked so hard to build up our country, and they deserve our best efforts to help them weather the storm.

In all of these respects, the Senate bill makes major improvements over the measure passed in the House of Representatives. It is fairer, and it produces a greater stimulus effect by paying low and moderate income workers the same size tax rebate that more affluent taxpayers would receive. It also extends the tax rebate to include 20 million retirees struggling to make ends meet. The Senate bill will provide 14 billion more dollars in tax cuts to households with incomes below $40,000. That is the best way to get the American economy moving again.

There is no question that every family in America is struggling in today's economy, and that they face difficult times ahead. But today we have a choice about how to move forward. Do we do what it easy, or do we do what is right? Do we go part way or do we do what it takes to add dignity to the lives of all of America's working families?

I hope that each and every one of my colleagues will listen to their conscience, do the right thing, and support the kind of stimulus that will help all Americans achieve better days ahead.

Mr. KERRY. Mr. President, first I would like to thank Senate Finance Committee Chairman BAUCUS and Ranking Member GRASSLEY for their prompt action in developing this economic stimulus package. Last week, the House passed an economic stimulus package. Although it was not perfect, it did provide us with a solid foundation from which to build a comprehensive bill in the Senate. I believe the Finance Committee proposal that is before us today makes a number of crucial improvements to the House version. For that reason, I urge my colleagues to vote to invoke cloture on the Finance Committee economic stimulus package.

The Finance Committee package was designed in a bipartisan manner to improve upon the House bill, not to add ''pet projects'' or so-called ''goodies.'' Our goal is not to delay the passage of an economic stimulus bill, but to provide a package that will provide a genuine stimulus that is targeted to Americans who need our help the most. According to the Center on Budget and Policy Priorities, the Senate package would not delay, but accelerate the delivery of a stimulus.

The Finance Committee makes improvements in the following areas: structure of the rebate; business tax incentives; housing; unemployment insurance; and funding for LIHEAP. Low-income families should not receive a smaller rebate just because they do not have taxable income. These families need our help and economists that testified before the Committee have pointed out the potential for this investment to truly aid in kick-starting the economy. The Finance Committee will provide a $500 rebate to all eligible singles and $1,000 to married couples.

The Senate Finance rebate is structured in a manner which will allow senior citizens receiving Social Security benefits without taxable income to be eligible for the rebate. Senior citizens are facing the same increases in food and energy prices as are other Americans and cannot be left out of the package. Many seniors in Massachusetts live on fixed incomes. They struggle to pay their medical and heating bills.

Unfortunately, 20 million seniors were left out of the tax rebate in the House-passed stimulus bill. When we are contemplating distributing stimulus checks broadly across most American families, it would just be wrong not to include 20 million seniors of the Greatest Generation.

Not only does the House passed economic bill exclude seniors from rebates, it excludes 250,000 disabled veterans who do not file a tax return. There is no valid reason to leave out those who were wounded while serving their country.

As Chairman of the Committee on Small Business and Entrepreneurship, I am pleased this economic stimulus plan includes two tax provisions which Senator SNOWE, who serves as the ranking member of the Committee, and I believe will help small businesses. The first provision doubles the amount of business purchases that a small business can write-off from $125,000 to $250,000 for 2008. This will provide an incentive for small businesses to purchase more equipment and expand their business.

The second provision expands the carryback period for net operating losses, NOLs, from 2 to 5 years. This targeted provision will help businesses address losses. By allowing NOLs to be carried back for a longer period of time, business owners will be able to balance out net losses over years when the business has a net operating gain, helping small businesses with their cash flow. Any action we take to foster their growth benefits our economy as a whole.

At the Real Estate Roundtable earlier last week, Treasury Secretary Paulson said, ''the U.S. economy is undergoing a significant housing correction. That, combined with high energy prices and capital market turmoil caused economic growth to slow rather markedly at the end of 2007, as reflected in the gross domestic product numbers.'' The GDP fell from 4.9 percent in the third quarter of 2007 to only 0.6 percent in the last quarter.

A strong economic stimulus package needs to address the root of the problem—the housing crisis. The unexpected losses on subprime mortgages and the breadth of the exposure has created uncertainty in the economy. Homeowners facing higher interest rates on the subprime adjustable-rate mortgages, ARMs, and lower housing prices are having trouble refinancing. Approximately 1.7 million subprime ARMs worth $367 billion are expected to reset during 2008 and 2009.

Owning your own home is the foundation of the American dream. Home ownership encourages personal responsibility, provides financial security, and gives families a stake in their neighborhoods. According to the Mortgage Bankers Association's National Delinquency Survey, there were roughly 2.5 million mortgages in default in the third quarter of 2007—an increase of about 40 percent when compared to the same quarter in 2005.

A few weeks ago, I held a roundtable discussion on the economy in Massachusetts. Jim Harrington, the Mayor of Brockton, MA, told me that his city had 400 foreclosures last year and expects 400 more this year. In the City of Boston, there were 703 foreclosures in 2007 after just 261 in 2006. The dramatic increase in foreclosures in cities across the nation are lowering revenues and making it more difficult for them to respond to the housing crisis.

The Finance Committee amendment includes a provision to provide $10 billion for mortgage revenue bonds. This provision is based on a bill introduced

by Senator SMITH and myself. It passed in the Finance Committee by a 20–1 vote. It is also important to note that President Bush, during his State of the Union Address, asked the Congress to provide additional authority for mortgage revenue bonds and included a similar provision in the budget for fiscal year 2009.

Specifically, this provision would provide $10 billion of tax-exempt private activity bonds to be used to refinance subprime loans, provide mortgages for first time homebuyers and for multifamily rental housing. This provision will help families retain affordable housing. The housing crisis also affects rental housing because many families who lose their homes will move into rental housing.

With the additional mortgage revenue bond authority, States and local governments could rapidly escalate demand for housing and stimulate the economy by increasing the flow of safe, non-predatory mortgage loans. In 2006, State and local governments financed 120,000 new home loans with MRBs. With the additional $10 billion in funding, States and localities can match that amount and finance approximately 80,000 more home loans.

According to the National Association of Home Builders, every mortgage revenue bond new home loan produces nearly two, full-time jobs, $75,000 in additional wages and salaries and $41,000 in new Federal, State and local revenues. Also, each new home loan results in an average of $3,700 in new spending on appliances, furnishings, and property alterations.

Separate from mortgage revenue bonds, the Finance Committee extends unemployment benefits by thirteen weeks through the end of 2008. In December alone, the national unemployment rate shot up from 4.7 percent to 5 percent and half a million more workers joined the ranks of the employed. Labor statistics released last week show the labor market is faltering. In the past month, our economy lost 17,000 jobs. We need to extend unemployment benefits now. When it takes longer to find a job, current unemployment benefits are not adequate.

Extending unemployment benefits is one of the most effective ways to stimulate the economy. Families struggling to make ends meet after losing their paycheck will spend the benefits quickly. Every dollar spent on benefits leads to $1.64 in economic growth. In addition, unemployment benefits will reach workers about two months before rebate checks start to be delivered.

Finally, the Finance Committee package has been modified to include an additional $1 billion for the Low-Income Home Energy Assistance Program—one of the most effective programs to help low-income Americans struggling with rising energy costs. According to economist Mark Zandi, an increase in LIHEAP funding should be part of a stimulus bill. Increased LIHEAP funding will eliminate the need for families to choose between food and energy costs—a choice no family should ever face.

Home heating prices in Massachusetts are 44 percent higher today than they were just 1 year ago, and thousands of families will have difficulties paying their heating bills this winter. Massachusetts families will be able to benefit by approximately $22 million from this proposed increase in LIHEAP funding.

Mr. President, once again, I would like to thank Chairman BAUCUS for his efforts in developing this important stimulus package. I ask all my colleagues to support this amendment so that more seniors, small businesses, homeowners, and hard working families struggling to make ends meet can get the assistance they deserve.

Mr. GRASSLEY. Mr. President, we have come down to the crucial vote on whether we are going to greatly improve the House stimulus bill. In a few minutes, all Senators will have to undergo that balancing exercise I referred to last week.

On one hand, you have the legitimate concerns on the part of the House, White House, and Senate Republican. Leadership. That concern is that a wide open Senate process would slow down and complicate a straightforward House bill. Those who hold this view correctly point out that the House bill was the product of tough negotiations.

The White House and House Republicans made concessions in that negotiation. Likewise, House Democrats made concessions in that negotiation. Supporters of the House bill emphasize the need for speedy action to send the signal to workers, investors, and business people that the Federal Government is responding to the slowing economy.

On the other hand, are concerns about the substance of the House bill and a truncated process that limits the role of the Senate.

It comes down to this, Mr. President. The leaders' concern with timing must be weighed against the question of the quality of the House bill. In other words, is a take-it or leave-it House bill, which passes quickly, better than a Senate bill which allows the Senate to work its will.

I have laid out the leaders' concerns about timing. Now, we question of the adequacy of the House bill. That is the other side of the balance we need to strike.

Let's examine this side of the question. Asked another way, did the committee process improve the House bill with a Senate amendment?

I think everyone would have to answer yes. That is, the Finance Committee amendment is an improvement over the House bill. Twenty million seniors will get the checks. Over 200,000 disabled veterans will get the checks. Illegal immigrants will not be entitled to checks. These improvements to the rebate structure were the direct result of deliberations in the Finance Committee. They were contributions by members on each side. We improved the business stimulus provisions as well.

Our goal was a bipartisan economic stimulus package. The committee worked its will and improved the bill. The committee bill responded to the needs of Americans and business and, if enacted, would provide a very much needed boost for the economy.

The best proof of this point is the concession by opponents of the Finance Committee bill that the House bill must be changed on the structure of the rebate.

Before you vote, I ask Members to go back to the basic question of balancing quick action on the House bill versus improvements made by the Finance Committee.

The House bill could be passed quickly without improvements. Or we could finish the process here in the Senate and add the improvements made by the Finance Committee.

If cloture is achieved on the Finance Committee amendment, then we will have a different challenge.

We must not load up this stimulus package else further or it is likely to sink. Our leaders are right that we need to act quickly.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, in a few moments we are going to have an extremely important vote. Nineteen days ago, the President first proposed an economic stimulus package and implored the Congress to act. It was impressive to see the Democratic Speaker of the House, the Republican leader of the House, and the Secretary of the Treasury of the Bush administration all together having worked out an important stimulus package that we believe will help our economy.

Then in an apparent jolt of nostalgia from last year, Senate Democrats decided to co-op a bipartisan proposal produced by the House, to put together a carefully crafted political document coming out of the Finance Committee.

It may be a good proposal in some respects. I am sure it contains a lot of what is appealing to Members. But the point here was to try to do a targeted, temporary jolt to our economy, and to try to astonish the American people by doing it on a bipartisan basis, rapidly.

This package will not achieve that result. There is an opportunity, however, to do that. First, we must defeat the Reid proposal, and then there will be an opportunity to adjust the House proposal in a way that is acceptable to the Speaker of the House, the Republican leader of the House, and the

President of the United States, thereby achieving an early signature.

So I will offer, along with Senator STEVENS, after the Reid proposal does not achieve cloture, an amendment to the House-passed bill that will deal with Social Security, with veterans, and with the immigration problem. And with regard to the veterans piece of it, one of the deficiencies of the Finance Committee or Reid proposal is that it does not cover the widows of veterans. That omission will be corrected in the proposal I will offer.

So if we want to provide this stimulative effect for the widows of veterans, a way to do that, and the way to do it in a proposal that will be signed by the President of the United States, approved by the House of Representatives on an overwhelmingly bipartisan basis, is to approve the McConnell-Stevens amendment.

Now, let me say, Senator STEVENS and I don't have any pride of authorship. If it will help us get this job done, if it will help us get this job done, we can call it the Reid-Obama-Clinton proposal as far as I am concerned. The goal is not so much to claim credit as it is to astonish the American people and do something on a bipartisan basis and do it quickly—do it quickly.

People will be astonished, and we think the markets and others around the world will watch in amazement to see that, on a bipartisan basis, the U.S. Government can do something effective and fast. So I would be more than happy to change the name of the amendment if that would make it more palatable.

We have no particular pride of authorship. This whole path we are going down started out on a bipartisan basis; I was hoping we would end it on a bipartisan basis. As far as the credit part of it is concerned, we can all take credit, we can go upstairs to the gallery together, Senator REID and I, side by side, and say: We came together. We did something for the American people.

The House can simply take this up—we know; the majority leader of the House said today, he implored us, the majority leader, not to load up this bill with too many extras that would imperil the bill.

He was referring, of course, to the package upon which we will be having a cloture vote shortly. So the way forward is clear. Let's defeat the proposal that we know will not be accepted by the House, we know will not be signed by the President. Let's modify the House bill—we can call it the Reid-Clinton-Obama bill as far as I am concerned—and get it back over to the House. We have their assurance they will take it up, pass it, and send it to the President for his signature. But first we must defeat the Reid-Finance Committee package.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, the President of the United States returned from the Middle East 2 weeks ago tomorrow. I had a conversation with him on the telephone, with the Speaker, and a number of other people.

At that time, the decision was made that the President would hold off on any statement he would make on specificity on Friday following that Thursday, and that we should sit down and see what we could work out with his Secretary of the Treasury.

We did that. A decision was made, as I have said on this floor on a number of occasions. This decision was made because of the House rules compared to the Senate rules, that this would be a bill that would come from the House. That bill has come from the House. I have never in any way disparaged it.

But it is not something that does not need fixing. That was the whole purpose of the House working on it and then we are working on it. So any intimation by my friend, the Republican leader, that whatever the House came up with we would just put a big stamp of approval on it does not speak well to the history of this body.

We have an obligation to do what we think is best to stimulate the economy. We have done that. What we have done is not a political document. It is a piece of legislation. Now, from what I have heard from my friend, it appears that they would agree, by unanimous consent, the bill that is now the House bill—what I understand they would be willing to add to that is language that would prevent undocumenteds from drawing the benefits of those rebates. They would also be willing to accept senior citizens as listed in the Senate Finance bill, 21.5 million of them; wounded veterans, 250,000 of them; and the widows of those veterans.

It sounds good to me. I would be happy, and I ask unanimous consent at this stage. Are they willing to accept that, to add that to the package that we now have? That is, add the widows to the package that is now before the body? I agree we can add widows. I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Would the majority leader restate his unanimous consent request?

Mr. REID. The Senate Finance package that is now before the Senate, I ask unanimous consent that we add to that widows of the veterans.

Mr. MCCONNELL. Mr. President, reserving the right to object, this is what has been going on all week: adjustments to the package in order to play political games.

Now, with all due respect to my friend, the majority leader, we are going to have an opportunity to fix this problem on the widows of veterans at a later date.

We do not have to fix it on this first vote. How many different times do they want to change it? They originally told us they were going to give us the paper last Thursday night. It kept evolving and evolving and evolving. We will have a chance to fix this problem.

The first opportunity would be the amendment that Senator STEVENS and I intend to offer. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. That is somewhat unusual. It appears the changes as have been suggested by my friend—I wanted to be cooperative and say that is a good idea.

You can flip open any newspaper, tune in to any news program, tune in to any radio show, and you are bound to hear from professors, economists, analysts, and pundits debating about the state of our economy. It used to be a lot of them were asking: Are we in a recession now? Not too many are asking that now. They believe we are in a recession. But they do ask continually how deep will it be; how long will it last.

Those questions are valid and appropriate. But they are asked by those who spend their lives thinking about the economy, not by those who spend their lives working in the economy or building the economy, to those Americans working harder than ever who end up with less.

There is no doubt the state of the economy is not good. Millions of working families are trying to make their paycheck stretch until the next paycheck, as their gasoline, heating, and grocery bills skyrocket, of course, medical bills are never able to be paid.

They know how our economy struggles. Millions of senior citizens are living on incomes that are fixed but face living costs that are anything but fixed. They know how our economy struggles. Small business owners are facing rising health care costs for their employees and greater difficulty finding capital to grow. They know how our economy struggles.

Millions of homeowners are in foreclose or face it soon; 37 million people. In California, foreclosure rates have gone up more than 300 percent; Florida, 250 percent. We could go through a long list of problems. But they are difficult. The housing market is in big trouble as these people watch their dreams and their security come crashing down. They, too, know how our economy struggles. It affects everyone.

I did a TV show down here with the mayor of the city of Fernley, NV.

Mayor, how is the economy?

He said: It is tough.

They just had a levee break and a Bureau of Reclamation project has been there for a long time. You know, the water came and covered homes for 2 miles. Some of it was 8 feet deep. With the state of the housing market so bad, a lot of people are saying: I don't think it is going to do any good to rebuild my home. I don't think I can borrow the money to fix it up or I can't make the payments.

It is fair to say that President Bush will not be remembered as a good steward of our economy. When he took office, there was a surplus over the next

10 years of some $7 trillion. As Senator CONRAD mentioned at a presentation earlier today, in his 7 years, he has run up the debt. That is gone. The surplus is gone. He has run up the debt by more than $3 trillion. We have now spent about $750 billion in Iraq. Every penny of it has been borrowed. But even this President understands the urgent need for action, and we need to do that.

To his credit, President Bush called on Congress to pass an economic stimulus plan. House leaders, Democrats and Republicans, working with the White House, came together to craft a bill that serves certainly as a good starting point. That was always what it was supposed to be. But notably the House plan sends rebate checks out to the American people some time in probably May or maybe even June. They can't do anything with the rebate checks until the income tax returns are filed. Americans will use that money to pay their bills, to buy books and clothing for their children, or perhaps to make a long overdue repair of homes or cars or pay a doctor bill. Democrats, Republicans, we all agree, if we give the American people the money, they will spend it.

Last week the House sent the bill over here. In the Finance Committee, Chairman BAUCUS and Senator GRASSLEY put their heads together, one Democrat and one Republican, and made a good bill far stronger.

Here are some of the things they did that we are going to be voting on in a little while. Through bipartisanship, this Finance Committee package sends stimulus checks to 21.5 million senior citizens who would get nothing from the House bill. The bipartisan Finance Committee package sends checks to 250,000 wounded, disabled veterans who were left out of the House plan, veterans unable to work because of the sacrifice they made for our country. The bipartisan Finance Committee package extends unemployment benefits for those whose jobs have fallen victim to this economy which is on this down spin.

The Department of Labor recently told us that the economy lost thousands of jobs in January, on top of the millions who are already unemployed. The House bill doesn't extend unemployment benefits, and economists tell us that is one of the most effective ways to stimulate the economy.

The bipartisan Finance Committee plan helps both small and large businesses. Small businesses will have a greater ability to immediately write off purchases of machinery and equipment, and large business will receive bonus depreciation, an extended carryback period for past losses to recoup cash for future investments. The bipartisan Finance Committee package addresses the housing crisis by adding $10 billion in mortgage revenue bonds that can be used by States to refinance mortgages. The reason I focus on this is the President of the United States in his State of the Union Message said:

> . . . and allow state housing agents to issue tax-free bonds to help homeowners refinance their mortgages. (Applause.)

We stood and applauded when he said this. That was the right thing for him to say. It is the right thing for us to do. That is what we have in our Senate Finance package, something the President called for in his State of the Union Message. Why should we be criticized for trying to improve the House plan because the President asked for it and we agree with what the President asked for?

The bipartisan Finance Committee package includes an extension of energy efficiency and renewable energy incentives to create jobs, lower energy bills, and help begin to stem the tide of global warming.

The Arizona Republic Newspaper, a newspaper not known for being left-wing, said in an editorial recently: The economic stimulus package from Congress needs some power, renewable power. The plan should include an extension of tax credits for renewable energy sources such as wind, solar, geothermal. We get a 3-for-1 impact: creating jobs, diversifying our energy supply, and reducing pollution. These aren't new tax credits. They are existing ones that are serving us well. Last year nearly 6,000 megawatts of renewable energy came on line. That injected $20 billion into the economy. That is what we have in this legislation. It is good legislation. It is important legislation.

The amendment I have submitted adds two bipartisan measures to the committee's bill. One is an amendment to increase loan limits for Fannie Mae and Freddie Mac as well as FHA-backed mortgages which will help more homeowners refinance and reduce mortgage interest rates. The other provides funds for the Low-Income Home Energy Assistance Program, LIHEAP. These funds will help low-income families—and there are lots of them—afford their heating bills which are skyrocketing even as big oil reports record profits. Shouldn't we do this? Last quarter Exxon made more money than any company in the history of the world. They had a net profit of over $40 billion in one quarter. This effort to get individuals and companies investing in renewable energy is important. That is what is in this bill. We should not be criticized for this.

What the bipartisan Finance Committee accomplished, they took a good plan and made one much better—better for seniors, for veterans, for working families, for business, for our economy. They did it in a bipartisan manner. This isn't a Democratic package. It is a bipartisan package. They did it quickly. They did exactly what the Senate is supposed to do.

The stimulus plan before us tonight is smart, targeted, and it is effective. That is why it is supported by the AARP, Families USA, Alliance for Retired Americans, National Association of Manufacturers, American Home Builders Association, National Council on Aging, union groups, Veterans of Foreign Wars, Paralyzed Veterans of America, Easter Seals, and on and on. There is lots of support from lots of different organizations, scores of them. I have only hit a few of them.

The Republican leader and members of his caucus should have come to the Senate floor to congratulate Senators BAUCUS and GRASSLEY, as these groups did. After this was done, these groups made hundreds and thousands of phone calls to thank the Finance Committee for doing this. It was the right thing to do. This is not a partisan measure, and that is why these groups—many of these groups traditionally don't support Democrats—like this. It is bipartisan.

I am happy that a majority—and we will find out if there are 60—of this Senate approves of this package, a significant majority. We hope we will get 60, 61 votes. Time will tell. But the RECORD should reflect that a majority of the Senate, Democrats and Republicans, supports this bipartisan measure we got from the Senate. And it is interesting to note that as to this perfect plan we got from the House, the Republican leader said he would like to change it. So the House plan obviously needs to be improved. It needs to be improved because of language dealing with undocumented people. It needs to be improved because of seniors and veterans, which the Republicans admit. The House plan couldn't have been that great if they accept those changes.

This is a good piece of legislation. That is why I am happy and satisfied that a majority of the Senate approves what the Senate Finance Committee did. Secretary Paulson, whom I have enjoyed working with, said this morning that the Senate Finance Committee bill is ''coming to the trough.'' My friend the Republican leader said these are pet projects. The majority of the Senate, Democrats and Republicans, disagrees with that. They do not think that seniors and veterans are pet projects. And if they are pet projects, I plead guilty, because they are my pet projects. Seniors are my pet project. Veterans are my pet project.

I have not served in the U.S. military. But during my entire career as a Member of Congress, I have bent over backward because of the sacrifices made by people such as DAN INOUYE and CHUCK HAGEL and many others in this body and around the country. I do everything I can to have veterans as my pet project. And they are. And the vast majority of the Senate agrees with that.

So I think Secretary Paulson should retract what he said. This is not coming to the trough. We are coming to help people. We are coming to help veterans, seniors, people who are unemployed. Maybe my friend, the Secretary of the Treasury, has never been unemployed. Maybe he thinks those checks are not worth anything. We know the Secretary of the Treasury is a very

wealthy man. People who are on unemployment benefits, without exception, are not wealthy. They are people who were depending on a check to come when payday came. Payday came, and they had no job. The unemployed are a pet project of mine. I would say that the unemployed don't have the advocates, the lobbyists that a lot of other groups have, but they are as important.

Is it a pet project to help businesses weather the storm of this downturn? I don't think so. Is it a pet project to help people pay for their heating bills? And if there is something negative about that term, I plead guilty. Is it a pet project to help families avoid foreclosure? If the answer is yes, we know that a majority of the Senate is in favor of these pet projects. We know that a majority of the Senate supports these pet projects and will defend these projects.

I hope there are enough of my friends on the other side of the aisle who will step forward and do the right thing and support this bipartisan plan that will help stimulate the economy.

I am not naive enough not to know that when this bill leaves here, whatever shape it is, it goes to a conference with the House. The President will be heavily involved in that. It will have the stamp of approval of the House and the Senate. But pressure is building, and that is why a majority of the Senate of the United States believes that this Senate stimulus package is a good piece of legislation. We have already established tonight, through the words of the Republican leader, that the House package is far from perfect, because he has acknowledged that he wants to change that. If we stand together on this bill—and Senators BAUCUS and GRASSLEY have stood together—we can achieve something today that will make our economy stronger and make the American people proud that we have not forgotten the unemployed, that we have not forgotten the military folks who have given so much, and the seniors.

I still often want to call my mother. I used to call my mother every day. She was a Social Security recipient. I know I can't call my mother, even though I want to on many occasions. But I do know that if she got this check like we are trying to give her and others similarly situated, she would spend that money if she were alive. She would have that money spent in a matter of a few days. So this is the right thing to do.

The Senate should feel good that right now a bipartisan group of Senators, Democrats and Republicans, reported a bill out of the Senate Finance Committee and, after having done so, a bipartisan group of Democratic Senators and Republican Senators have joined together to say: Let's give the economy a boost. That is what this legislation will do.

Our time has expired, or it will in a minute or so.

Mr. President, as usual, we have people who want to get out of here and people who want to stay here. So we are going to wait until the time expires. So I will ask that we have a quorum call. There is just a minute or so left.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 3983 to H.R. 5140, the economic stimulus bill.

Herb Kohl, Max Baucus, Mark L. Pryor, Byron L. Dorgan, Robert Menendez, Jon Tester, Christopher J. Dodd, Barbara A. Mikulski, Joseph I. Lieberman, Frank R. Lautenberg, Daniel K. Akaka, Sheldon Whitehouse, Benjamin L. Cardin, Robert P. Casey, Jr., Richard Durbin, Claire McCaskill, Harry Reid.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 3983, offered by the Senator from Nevada, Mr. REID, to H.R. 5140, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—58

| | | |
|---|---|---|
| Akaka | Durbin | Murray |
| Baucus | Feingold | Nelson (FL) |
| Bayh | Feinstein | Nelson (NE) |
| Biden | Grassley | Obama |
| Bingaman | Harkin | Pryor |
| Boxer | Inouye | Reed |
| Brown | Johnson | Rockefeller |
| Byrd | Kennedy | Salazar |
| Cantwell | Kerry | Sanders |
| Cardin | Klobuchar | Schumer |
| Carper | Kohl | Smith |
| Casey | Landrieu | Snowe |
| Clinton | Lautenberg | Specter |
| Coleman | Leahy | Stabenow |
| Collins | Levin | Tester |
| Conrad | Lieberman | Webb |
| Dodd | Lincoln | Whitehouse |
| Dole | McCaskill | Wyden |
| Domenici | Menendez | |
| Dorgan | Mikulski | |

NAYS—41

| | | |
|---|---|---|
| Alexander | Cornyn | Isakson |
| Allard | Craig | Kyl |
| Barrasso | Crapo | Lugar |
| Bennett | DeMint | Martinez |
| Bond | Ensign | McConnell |
| Brownback | Enzi | Murkowski |
| Bunning | Graham | Reid |
| Burr | Gregg | Roberts |
| Chambliss | Hagel | Sessions |
| Coburn | Hatch | Shelby |
| Cochran | Hutchison | Stevens |
| Corker | Inhofe | Sununu |
| Thune | Vitter | Warner |
| | Voinovich | Wicker |

NOT VOTING—1

McCain

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the amendment.

The PRESIDING OFFICER. The motion to reconsider is entered.

Mr. REID. Mr. President, first, let me express my appreciation to everyone who took my calls, who listened to Democrats and Republicans asking them to vote for this very important stimulus package. It was a good debate. The American people would have been better for having done this, but I appreciate the bipartisan nature of this vote. Fifty-nine Senators joined together to do what they thought was the right thing for the country.

I will have before the evening is out, in fact shortly, a conversation with the Republican leader in the immediate future this evening to let him know what I intend to do in the near future and not so near. So pending my conversation with the Republican leader, I note the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

## MORNING BUSINESS

Mr. DURBIN. I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECOGNIZING EDWARD J. MOLITOR, SR.

Mr. DURBIN. Mr. President, Ed Molitor has been coaching basketball at Palatine High School for so long that when the local paper reported on his retirement, the sports trivia question it ran included the name of his predecessor.

When Ed Molitor was in college, he went to a playoff game between two Chicago high school basketball teams—DuSable and DePaul Academy. He credits this game with altering the course of his life.

At the time, Ed Molitor was a premed student at St. Procopius College. When he wasn't consumed with his studies, he helped a friend coach basketball at an elementary school on the

city's south side. It wasn't until he watched the two high school teams battle it out on the court, though, that he realized medicine wasn't his real passion. It was basketball. Molitor transferred to Roosevelt University and shifted his focus to education.

After graduation, Molitor started as assistant coach of the DePaul Academy High School basketball team. As assistant coach, he worked under Coach Bill Gleason, who became both a mentor and friend. Molitor went on to coach basketball at Marist High School on the southwest side of Chicago.

In 1976, Molitor became head coach of Palatine High School's varsity basketball team. He stayed for more than three decades. During his 32 years at Palatine, Molitor coached more than 700 athletes. He left an indelible mark on the players, the school, and the community. No fewer than 16 of his former players have gone on to coach high school basketball, and 5 currently coach collegiate basketball.

On December 28, 2007, Coach Molitor earned his 500th career victory. When honored with the game ball at a postgame ceremony, Molitor admitted that he hadn't been aware he was approaching this impressive milestone until he read about the achievement in the newspaper.

Throughout his remarkable coaching career, Ed Molitor emphasized achievement off the court as much as on it. In his own words, ''you have to convince a kid he's got potential, not only in athletics, but in other walks of life.''

Coach Molitor emphasizes the mental elements of the game over the physical, and this approach has brought him and his players success on the court and in life. He has led teams to six conference championships, seven regional titles, and two sectional championships.

I am happy to report that his peers have recognized Ed Molitor's skills. On two occasions, he has been named Coach of the Year by the Illinois Basketball Coaches Association. In 1997, the association inducted Molitor into its Hall of Fame. Over the years, Coach Molitor has been selected to coach a number of regional, state, and national teams. He also sits on the All-State Selection Board.

Ed Molitor has been a tremendous asset to Illinois high school basketball throughout his coaching career, but his greatest value has always been to his players. Today, I join the current and former members of Palatine High School's varsity basketball team in thanking Coach Molitor for his commitment to coaching and his passion for helping student-athletes develop character, discipline, and perseverance—skills that will prove valuable even after the season has ended.

Mr. President, I congratulate Coach Ed Molitor on his accomplishments throughout his long and successful coaching career, and I wish him many more years of happiness and accomplishment in retirement.

## HONORING OUR ARMED FORCES

### PRIVATE FIRST CLASS CHRISTOPHER F. PFEIFER

Mr. NELSON of Nebraska. Mr. President, I rise today to honor PFC Christopher F. Pfeifer of Spalding, Nebraska.

Private First Class Pfeifer grew up in Spalding and, during high school, played football, as well as the drums in the school band. He enjoyed fishing, hunting, golfing, and especially music and playing his drums. His music teacher said he was one of the better drum players she had ever seen. After joining the Job Corps, he earned his high school diploma, and met his future wife, Karen. They married on March 22, 2006, and 1 month later, he joined the U.S. Army, partly influenced by his brother's service as a Green Beret. His father said he loved the Army and, after completing his military commitment, wanted to use the G.I. bill to go to college.

Private First Class Pfeifer was serving in support of Operation Enduring Freedom, assigned to the 1st Squadron, 91st Cavalry Regiment, 173rd Airborne Brigade Combat Team, in Schweinfurt, Germany. On August 17, 2007, his unit came under enemy fire near Kamu, Afghanistan. Private First Class Pfeifer sustained wounds while bravely trying to pull fellow soldiers to safety. He passed away on September 25, 2007, at Brooke Army Medical Center, Fort Sam Houston, San Antonio, TX. Private First Class Pfeifer was posthumously awarded the Purple Heart.

Private First Class Pfeifer is survived by his wife Karen and their newborn daughter Peyton; his parents Michael and Darlina Pfeifer of Spalding, NE; his brother, Aaron of Fort Bragg, NC; and his sister Nichole, of Hauppauge, NY. I offer my most sincere condolences to the family and friends of Private First Class Pfeifer. He made the ultimate and most courageous sacrifice for our Nation, and his daughter will grow up knowing her father is a hero. I join all Americans in grieving the loss of this remarkable young man and know that Private First Class Pfeifer's passion for serving, his leadership, and his selflessness will remain a source of inspiration for us all.

## ADDITIONAL STATEMENTS

## HONORING B. LYN BEHRENS

● Mrs. BOXER. Mr. President, today I ask my colleagues to join me in honoring Dr. Lyn Behrens as she retires as president and CEO of Loma Linda University Adventist Health Sciences Center, drawing to a close a successful career in medicine and civic leadership.

After completing her degree in medicine from the Sydney University School of Medicine in Australia in 1964, Dr. Behrens became the first and only pediatric resident at Loma Linda University Medical Center in 1966. By 1986, Dr. Behrens was the first female Dean of the School of Medicine, and by 1990 she had become the first female President of Loma Linda University. Five years later she assumed the position of CEO of Adventist Health System, which soon became the Loma Linda University Adventist Health Science Center. In 1999, Dr. Behrens was chosen to serve as President of Loma Linda University Medical Center. Loma Linda University and Medical Center has prospered under her leadership, and has become a preeminent institution for patient care and medical technology. I have had the pleasure of visiting Loma Linda University and have found Dr. Behrens to be an exemplary model to her colleagues, capable of bringing out the best in her associates.

During Behrens' tenure, Loma Linda University witnessed the development of a dedicated children's hospital with the most advanced equipment and methodology. The university has also witnessed the development of a center for behavioral medicine, as well as a rehabilitation, orthopaedic and neurosciences institute. The university has also added new schools of pharmacy and science and technology, and has worked diligently to foster its interaction with local research institutes to develop innovation in the use of global information systems to assist with emergency medical response. The first hospital-based center for proton therapy and research has also been developed under Behrens' tenure, and has become a leading institution in the treatment of cancer. The university has taken great strides to improve care and support for our Nation's veterans at the Jerry L. Pettis Memorial VA Medical Center.

Dr. Behrens has also been a dynamic leader in her community, working to ensure positive community service to her area and throughout the world. She has been instrumental in bringing to fruition a great number of social and community services organizations and programs. Programs such as the Social Action Community Health Services Clinic, PossAbilities, Community Kids Connection and Operation Jessica, have brought medical and social support to a broad group of individuals. These organizations have assisted special needs and at-risk children and teens, and developed after-school programs and ESL—English Second Language—programs. Dr. Behrens' leadership has also provided for increased medical and community support internationally, providing support in 12 nations, including the only teaching hospital in Kabul, Afghanistan, and the most advanced hospital in mainland China.

As she retires from more than four decades of service and leadership in medicine to the communities of California and beyond, I am pleased to ask my colleagues to recognize her for a career of visionary leadership. The future of medical education, research, and service will be forever changed thanks to her bold leadership.●

## 50 YEARS OF SPACE EXPLORATION

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in recognizing and honoring the California Institute of Technology's Jet Propulsion Laboratory, JPL, in Pasadena, CA, for 50 years of space exploration. Since the launch of *Explorer I*, America's first spacecraft, on January 31, 1958, JPL has made momentous and historic contributions to our scientific understanding of our vast universe.

For the past five decades, the Jet Propulsion Laboratory has been a respected leader in furthering scientific knowledge around the world. Explorer 1 was built in less than 3 months, and was the first spacecraft ever launched into space that actually revolved around Earth and provided scientific findings from space. The immense success of *Explorer I* led to the passage of the Space Act in 1958, which established the National Aeronautics and Space Administration (NASA).

Since the inception of NASA, JPL has been on the forefront of science and technology through its research and exploration of every known planet in our solar system. Subsequent to the success of *Explorer I*, JPL has continued to have a central role in accomplished space missions, such as exploring our vast solar system with Voyager 1 and 2 and the Mars Exploration Rovers. JPL has also been instrumental in understanding our planet.

I congratulate the California Institute of Technology's Jet Propulsion Laboratory on 50 years of successful and insightful space exploration, and thank the original members of the *Explorer I* team for their contribution to American history.●

## BEST COMMUNITIES FOR YOUNG PEOPLE

● Ms. KLOBUCHAR. Mr. President, each year, the America's Promise Alliance names the 100 Best Communities for Young People in the Nation. Today, I am proud to honor five Minnesota towns that have achieved this tremendous designation—Landfall, Mankato, Northfield, Saint Louis Park, and Saint Paul, MN.

The 100 Best Communities for Young People is an annual competition that recognizes outstanding community-wide efforts that improve the well-being of youth and inspire other localities to take action.

There is apparently much to find inspiration from, as two previous award winners have now become five—a strong showing from the great State of Minnesota.

Each of these five Minnesota communities demonstrated a commitment to community support of children through resources including effective education, safe gathering places, and a wide range of programming. Their commitment generates real outcomes in the form of high graduation rates and educational achievement, healthy behaviors, and civic engagement by their young population.

Landfall, MN, is a small town with big plans for its young people. A town of just 700, they place a premium on expanding the horizons of young people. They provide students with ''Extra Innings,'' a tutoring and mentoring program that gives elementary through high school students one-on-one help with math, reading, and English as a second language.

Mankato, MN, a three-time winner of this honor, prides itself on embracing young people to help them reach their fullest potential. Among their initiatives is the LinkCrew, which pairs high school freshmen with junior and senior year mentors to help them make a successful transition to high school. And, as the town that raised six Bessler boys, including my husband John, I know firsthand of the high-caliber young people Mankato produces.

Northfield, MN, used to be a farm town, centered between corn and wheat fields. Now, anchored by two of our Nation's preeminent colleges, Carleton College and Saint Olaf College, Northfield has become an enriching place for young people. The Mayor's Youth Council allows students ages 15 to 18 to advise the mayor and city council on issues related to the young population.

Saint Louis Park, MN, is also a three-time winner. They welcome youth into their process of government, inviting them to participate in decisionmaking on special neighborhood and community issues. Among other attractions, it is home to 51 parks thanks to the city's initiative to reserve a percentage of all city land for public parks. And in a special nod to its young population, the city's Web site lists the best sledding hills in its community.

Saint Paul, MN, is our State's capital city and a shining example of how to engage children after school hours. Through the Second Shift and After School Initiatives, they provide positive places for children to spend their afternoons, develop new skills, and obtain academic assistance.

From his theatre in downtown Saint Paul, Minnesota's native son, Garrison Keillor, refers to his fictional Minnesota town of Lake Wobegon as a place where ''all the women are strong, all the men are good-looking, and all the children are above average.'' These five towns have certainly proven Keillor's words are more truth than fiction.

I am proud to represent five of America's Best Communities for Young People and to congratulate them before the U.S. Senate.●

## RECOGNIZING SAINT CLOUD, MINNESOTA

● Ms. KLOBUCHAR. Mr. President, today I wish to recognize a great achievement by the City of Saint Cloud, MN.

St. Cloud, MN, is located on the banks of the Mississippi River, 60 miles northwest of the Twin Cities. When it was founded more than 150 years ago, it was known as the Granite City. But now it also bears the title of the Most Livable Community in the World.

The LivCom Awards are the world's only competition for local communities that focuses on environmental management and the creation of livable communities. This year, they have named Saint Cloud the ''Most Livable Community in the World.''

This award is a deserved honor and recognition of the outstanding efforts being undertaken by the City of Saint Cloud to create a livable and sustainable community.

The awards encourage best practice, innovation, and leadership in providing vibrant, environmentally sustainable communities that improve the quality of life for their residents and people worldwide.

Among the goals of the award is to model innovative community planning and living for other communities. I hope that Saint Cloud will inspire other communities to tackle challenging environmental and energy issues facing our nation.

Saint Cloud topped entrants from more than 50 countries. The residents of Saint Cloud, the Most Livable City in the World, have much to be proud of.

I ask that you join me in congratulating the world's most livable community, Saint Cloud, MN.●

## IN HONOR OF 2ND LIEUTENANT SETH C. PIERCE

● Mr. NELSON of Nebraska. Mr. President, today I wish to honor 2LT Seth Pierce of Lincoln, NE.

Lieutenant Pierce was a proud member of the U.S. Marine Corps, whose friends remember him as a dedicated and passionate person who ''wore his heart on his sleeve.'' While attending Lincoln Southeast High School, he ran the first leg on his relay team and won the State championship in 2001. His coach described his team as ''the most overachieving boys I've ever coached. They won because they were connected to each other.''

A 2002 graduate of Lincoln Southeast High School and a 2006 graduate of Arizona State University, Lieutenant Pierce was commissioned as a second lieutenant in the U.S. Marine Corps in December 2006. Leutenant Pierce passed away due to a car accident on October 21, 2007, in Quantico, VA, where he was stationed.

Lieutenant Pierce is survived by his parents, Larry and Linda Pierce of Surprise, AZ; his brother and sister-in-law, Aaron and Crystal Pierce, of Omaha; and his grandparents, Edwin and Ruth Steffens and Luther and Esther Pierce, all of Lincoln. I offer my most sincere condolences to the family and friends of Lieutenant Pierce. His noble service to the United States of America is to be respected and appreciated. The loss

of this remarkable marine is felt by all Nebraskans, and his courage to follow his dreams will remain as an inspiration.●

## RECOGNIZING HODGDON YACHTS

● Ms. SNOWE. Mr. President, today I commend a Maine business that last month unveiled a remarkably sturdy vessel for use by our Nation's Navy SEALs, a project for which I was honored to secure funding for. Hodgdon Yachts of East Boothbay, a family-owned company for five generations, has been a source of pride for Maine's boatbuilding industry for nearly 200 years, and its recent accomplishment is without a doubt one of its most impressive.

Hodgdon Yachts began building boats in 1816, when the company launched the 42-foot schooner *Superb*. Since then, Hodgdon Yachts has developed a reputation as one of New England's premier shipbuilders, persevering through difficult times and continually reevaluating its company's methods to be consistently on the cutting edge of the latest technologies. Of particular note for the State of Maine is Hodgdon's 1921 schooner *Bowdoin*, named for the Brunswick alma mater of Arctic explorer Donald MacMillan. The boat proved itself an invaluable tool in Arctic research and sailed more than 300,000 miles over 26 icy voyages in its career. Prior to the *Bowdoin*, the company turned its attention to building submarine chasers for the military in World War I, and continued its defense work by gaining minesweeper and troop transport contracts during both World War II and the Korean war.

By the late 1950s, Hodgdon Yachts returned to building more traditional wooden yachts for a variety of customers. By the mid-1980s, the company began to modernize its shipbuilding, providing clients with yachts of superb quality and strength while employing innovative technology in the creation of its boats. Hodgdon Yachts recently began using carbon Kevlar deposits to construct its yachts to make the boats as strong and secure as possible.

Hodgdon's proficiency in using Kevlar proved useful when, in May 2005, the company won a contract from the U.S. Navy's Office of Naval Research to build the prototype for a new special operations craft using these composites. The ship has a foam core surrounded by multiple layers of carbon, and its durability its reinforced by an outer layer of Kevlar. On January 11, 2008, the company launched this prototype, the 82-foot Mako V.1, named for a shark that frequents the Gulf of Maine's waters. It is the first Navy vessel constructed with carbon-fiber technology and was designed to protect Navy SEALs from injuries caused by the harsh conditions of the seas. Hodgdon teamed up with Maine Marine Manufacturing and the University of Maine in completing the Mako V.1, and I am so proud of the role that each played in supporting our nation's armed forces. I look forward to successful trials by the Navy and the continued role Hodgdon Yachts will play in the production of this fine vessel.

Throughout its history, Hodgdon Yachts has produced over 400 yachts and ships, perhaps none more vital than its latest. The company's work to keep shipbuilding alive and well in Maine is well documented, including President Tim Hodgdon's involvement in the formation of Maine Built Boats, an alliance whose goal is to present Maine's boatbuilding industry to a wider global audience. I firmly believe that, given our seafaring history and established work ethic, Mainers build the best ships, and Hodgdon Yachts only further exemplifies this tradition. I commend everyone at Hodgdon Yachts for their remarkable accomplishment in the Mako V.1, and wish them well in their future boatbuilding endeavors. ●

## TRIBUTE TO JOHN ROCK

● Mr. THUNE. Mr. President, today I wish to honor the life of John Rock, who passed away in November of 2007. John was an invaluable member of the Black Hills community, and he will be truly missed by all who knew him.

John will be remembered for his dedication to service in the Black Hills region. He made many invaluable contributions to the region through his extensive knowledge and life experiences. This dedication was evident through John's support of the Mammoth Site museum in Hot Springs, SD. He worked with the finance/personnel and governance committees and the board of directors of the Mammoth Site of Hot Springs, SD, Inc., from 2001 to 2007.

In addition to his being recognized by the Mammoth Site board, two theater seats will be dedicated to John and his wife Bonnie. A plaque in John's honor will also be placed on the Memorial Wall at the Mammoth Site.

John Rock's absence will be deeply felt in the Black Hills community. He was a truly dedicated individual who will be remembered for his lifetime of service to others.●

## TRIBUTE TO VIOREL G. ''VI'' STOIA

● Mr. THUNE. Mr. President, today I wish to honor Viorel G. ''Vi'' Stoia, a great South Dakotan who passed away on January 28, 2008.

Vi Stoia was born on February 13, 1924 in Aberdeen, SD, and began his lifetime of service and leadership at Aberdeen Central High School where he served as senior class president. Vi continued this leadership and service while he served in the U.S. Navy and attended the University of Minnesota. In 1949, Vi graduated with a degree in business administration and married his lifelong companion, Donna Marie Maurseth.

Vi's thirst for knowledge along with his extraordinary leadership abilities served him well during his lifetime. His long and illustrious professional career included countless distinguished appointments, awards, and honors.

Vi will be remembered by the Aberdeen community because of his exuberant service and dedication to constant improvement of the city, county, and State. Vi was a member of numerous community organizations, including the Aberdeen Jaycees and the Aberdeen Area Chamber of Commerce. Additionally, Vi's dedication and leadership were instrumental in rallying support for dozens of community projects.

The profound wisdom and deep commitment that Vi possessed is reflected through his role in the businesses, health organizations, educational affiliations, and political organizations for which he so diligently served throughout his life. Vi also received many awards recognizing his excellent work and service including: Distinguished Alumni Award—NSU, 1976; the George Award, 1979 and 1994; South Dakota Community Volunteer of the Year, 1991; Distinguished Service Award, Excellence in Economic Development, 2000; and South Dakota Medal of Distinguished Excellence, 2008.

Vi will be lovingly remembered by his wife Donna as well as his children and grandchildren as a loving husband, father, and a great man. He will forever remain in our hearts for his contributions to the Aberdeen area and the entire State of South Dakota. Few men will ever give as much of themselves or make as much of a difference in the lives of others as Vi Stoia. Today we celebrate the life and accomplishments of this great man. Although he does not stand among us, his legacy will live on for a time without end. For all that has been accomplished and achieved, for all of the lives that have been touched and enhanced, thank you, and God bless Viorel G. Stoia.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS DECLARED WITH RESPECT TO THE GOVERNMENT OF CUBA'S DESTRUCTION OF TWO UNARMED U.S.-REGISTERED CIVILIAN AIRCRAFT—PM 36

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, which states that the national emergency declared with respect to the Government of Cuba's destruction of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba on February 24, 1996, as amended and expanded on February 26, 2004, is to continue in effect beyond March 1, 2008.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 6, 2008*.

## MESSAGE FROM THE HOUSE

### ENROLLED BILL SIGNED

At 2:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4253. An act to improve and expand small business assistance programs for veterans of the armed forces and military reservists, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2596. A bill to rescind funds appropriated by the Consolidated Appropriations Act, 2008, for the City of Berkeley, California, and any entities located in such city, and to provide that such funds shall be transferred to the Operation and Maintenance, Marine Corps account of the Department of Defense for the purposes of recruiting.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4881. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, an annual report relative to the Bank's operations during fiscal year 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–4882. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fluopicolide; Pesticide Tolerance'' (FRL No. 8341-6) received on January 28, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4883. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Boscalid; Denial of Objections'' (FRL No. 8347-3) received on January 28, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4884. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Live Oak, Florida)'' (MB Docket No. 07-131) received on January 28, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4885. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Charlo, Montana)'' (MB Docket No. 07-143) received on January 28, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4886. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules'' ((FCC 07-170)(CS Docket No. 98-120)) received on January 28, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4887. A communication from the Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling'' ((FCC 07-186)(CG Docket No. 03-123)) received on January 28, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4888. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, an annual report relative to the implementation of Public Law 106–107 during fiscal year 2007; to the Committee on Environment and Public Works.

EC–4889. A communication from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Revision of Special Regulation for the Central Idaho and Yellowstone Area Nonessential Experimental Populations of Gray Wolves in the Northern Rocky Mountains'' (RIN1018-AV39) received on January 28, 2008; to the Committee on Environment and Public Works.

EC–4890. A communication from the Acting Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Tidewater Goby (Eucyclogobius newberryi)'' (RIN1018-AU81) received on January 28, 2008; to the Committee on Environment and Public Works.

EC–4891. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Health and Safety Data Reporting; Addition of Certain Chemicals'' ((RIN2070-AB11)(FRL No. 8154-2)) received on January 28, 2008; to the Committee on Environment and Public Works.

EC–4892. A communication from the Program Manager, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Reauthorization of Temporary Assistance for Needy Families Program'' (RIN0970-AC27) received on January 28, 2008; to the Committee on Finance.

EC–4893. A communication from the Assistant Secretary for Policy, Department of Labor, transmitting, pursuant to law, a report relative to the impact of increased minimum wages on the economies of American Samoa and the Commonwealth of the Northern Mariana Islands; to the Committee on Health, Education, Labor, and Pensions.

EC–4894. A communication from the Deputy Under Secretary for Management, Department of Homeland Security, transmitting, pursuant to law, an annual report relative to the Department's competitive sourcing efforts during fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–4895. A communication from the Senior Procurement Executive, Office of the Chief Acquisition Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005-23'' (FAC 2005-23) received on January 28, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–4896. A communication from the Acting Staff Director, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's recent appointment of members to the Kansas Advisory Committee; to the Committee on the Judiciary.

EC–4897. A communication from the Acting Staff Director, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's recent appointment of members to the Missouri Advisory Committee; to the Committee on the Judiciary.

EC–4898. A communication from the Acting Staff Director, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's recent appointment of members to the District of Columbia Advisory Committee; to the Committee on the Judiciary.

EC–4899. A communication from the Acting Staff Director, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's recent appointment of members to the South Carolina Advisory Committee; to the Committee on the Judiciary.

EC–4900. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report relative to its budget request for fiscal year 2009; to the Committee on Rules and Administration.

EC–4901. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Surrey County, England, Because of Foot-and-Mouth Disease'' (Docket No. APHIS–2007–0124) received on January 31, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4902. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mexican Fruit Fly; Removal of Quarantined Area'' (Docket No. APHIS–2007–0129) received on January 31, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4903. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting,

pursuant to law, the report of a rule entitled ''Inert Ingredients: Denial of Pesticide Petitions 2E6491, 7E4810, and 7E4811'' (FRL No. 8342-4) received on February 4, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4904. A communication from the Assistant Secretary of Defense (Homeland Defense and Americas' Security Affairs), transmitting, pursuant to law, a report relative to assistance provided by the Department to civilian sporting events during calendar year 2007; to the Committee on Armed Services.

EC–4905. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, a report relative to service charges imposed on one component of the Department for purchases made through another component of the Department; to the Committee on Armed Services.

EC–4906. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report entitled ''Acceptance of Contributions for Defense Programs, Projects, and Activities; Defense Cooperation Account''; to the Committee on Armed Services.

EC–4907. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13441 with respect to Lebanon; to the Committee on Banking, Housing, and Urban Affairs.

EC–4908. A communication from the President of the United States, transmitting, pursuant to law, a report on the continuation of the national emergency that was declared with respect to the conflict in the Cote d'Ivoire; to the Committee on Banking, Housing, and Urban Affairs.

EC–4909. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (72 FR 73651) received on January 31, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–4910. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and other Products Required Under the Energy Policy and Conservation Act'' (RIN 3084-AA74) received on February 5, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4911. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (28); Amdt. No. 3247'' (RIN 2120-AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4912. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Part 95 Instrument Flight Rules (18); Amdt. No. 471'' (RIN 2120-AA63) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4913. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (1); Amdt. No. 3246'' (RIN 2120-AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4914. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (3); Amdt. No. 3248'' (RIN 2120-AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4915. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Du Bois, PA'' ((RIN 2120-AA66)(Docket No. 05-AEA-17)) received on February 4 , 2008; to the Committee on Commerce, Science, and Transportation.

EC–4916. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Aguadilla, PR'' ((RIN 2120-AA66)(Docket No. 07-ASO-22)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4917. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (97); Amdt. No. 3245'' (RIN 2120-AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4918. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Williamsport, PA'' ((RIN 2120-AA66)(Docket No. 05-AEA-19)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4919. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Hailey, ID'' ((RIN 2120-AA66)(Docket No. 07-ANM-8)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4920. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Beaver, UT'' ((RIN 2120-AA66)(Docket No. 06-ANM-12)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4921. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Muncy, PA'' ((RIN 2120-AA66)(Docket No. 07-AEA-08)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4922. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Tappahannock, VA'' ((RIN 2120-AA66)(Docket No. 07-AEA-04)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4923. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; St. Mary's, PA'' ((RIN 2120-AA66)(Docket No. 05-AEA-20)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4924. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Lee's Summit, MO'' ((RIN 2120-AA66)(Docket No. 07-ACE-10)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4925. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Fort Scott, KS'' ((RIN 2120-AA66)(Docket No. 07-ACE-8)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4926. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Philipsburg, PA'' ((RIN 2120-AA66)(Docket No. 05-AEA-21)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4927. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Pottsville, PA'' ((RIN2120–AA66)(Docket No. 05–AEA–18)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4928. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eclipse Aviation Corporation Model EA500 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–083)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4929. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100B SUD, 747–200B, 747–300, 747–400, and 747–400D Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–306)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4930. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CFM International, S.A. CFM56–5C4/1 Series Turbofan Engines'' ((RIN2120–AA64)(Docket No. 2001–NE–15)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4931. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 206A and 206B Helicopters'' ((RIN2120–AA64)(Docket No. 2007–SW–14)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4932. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–221)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4933. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, and 430 Helicopters'' ((RIN2120–AA64)(Docket No. 2007–SE–36)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4934. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Aircraft Company, Model 525B Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–085)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4935. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Diamond Aircraft Industries Model DA 42 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–067)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4936. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aeromot-Industria Mecanico Metalurgica Ltda. Model AMT–100/200/200S/300 Gliders'' ((RIN2120–AA64)(Docket No. 2007–CE–066)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4937. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A, 205A–1, 205B, 210, 212, 412, 412EP, and 412CF Helicopters'' ((RIN2120–AA64)(Docket No. 2007–SW–37)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4938. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (68); Amdt. No. 3241'' (RIN2120–AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4939. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (101); Amdt. No. 3243'' (RIN2120–AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4940. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (8); Amdt. No. 3244'' (RIN2120–AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4941. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (67); Amdt. No. 3249'' (RIN2120–AA65) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4942. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 206A and 206B Series Helicopters'' ((RIN2120–AA64)(Docket No. 2007–SW–12)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4943. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205A, 205A–1, 205B, 212, 412, 412CF, and 412EP Helicopters'' ((RIN2120–AA64)(Docket No. 2005–SW–37)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4944. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc RB211 Trent 768–60, 772–60, 772B–60, and 772C–60 Turbofan Engines'' ((RIN2120–AA64)(Docket No. 2007–NE–28)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4945. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–133)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4946. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300–600 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–218)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4947. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 757–200, –200PF, and –200CB Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–27560)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4948. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 Series Airplanes'' ((RIN2120–AA64) (Docket No. 2006–NM–182)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4949. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–229)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4950. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, A340–300, A340–500, and A340–600 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–241)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4951. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Goodrich Evacuation Systems Approved Under Technical Standard Order TSO–C69b and Installed on Airbus Model A330–200 and –300 Series Airplanes, Model A340–200 and –300 Series Airplanes, and Model A340–541 and –642 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–035)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4952. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CTRM Aviation Sdn. Bhd. Model Eagle 150B Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–069)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4953. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–081)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4954. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–229)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4955. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 707 Airplanes and Model 720 and 720B Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–010)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4956. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–400, 747–400D, and 747–400F Series Airplanes; Model 757–200 Series Airplanes; and Model 767–200, 767–300, and 767–300F Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–088)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4957. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Model 560 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–234)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4958. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–108)) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4959. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 777 Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–164)) received on

February 4, 2008; to the Committee on Commerce, Science, and Transportation.

EC–4960. A communication from the Assistant Chief Counsel for Hazardous Materials Safety, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials; Miscellaneous Amendments'' (RIN2137–AE10) received on February 4, 2008; to the Committee on Commerce, Science, and Transportation.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Air Force nominations beginning with Colonel Mark A. Ediger and ending with Colonel Daniel O. Wyman, which nominations were received by the Senate and appeared in the Congressional Record on December 11, 2007.

Air Force nomination of Brig. Gen. Cecil R. Richardson, 3790, to be Major General.

Air Force nomination of Col. Robert G. Kenny, to be Brigadier General.

Air Force nominations beginning with Col. Daniel P. Gillen and ending with Col. Michael J. Yaszemski, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Brigadier General Robert Benjamin Bartlett and ending with Brigadier General James T. Rubeor, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Colonel Robert S. Arthur and ending with Colonel Paul L. Sampson, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nomination of Lt. Gen. Douglas M. Fraser, 7505, to be Lieutenant General.

Navy nomination of Rear Adm. Mark E. Ferguson III, 0136, to be Vice Admiral.

Navy nomination of Vice Adm. John C. Harvey, Jr., 4323, to be Vice Admiral.

Army nomination of Maj. Gen. Joseph F. Fil, Jr., 0990, to be Lieutenant General.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Chevalier P. Cleaves, 6145, to be Colonel.

Air Force nomination of Jawn M. Sischo, 6607, to be Colonel.

Air Force nomination of Joaquin Sariego, 0059, to be Colonel.

Air Force nominations beginning with John A. Calcaterra, Jr. and ending with Maria D. Rodriguezrodriguez, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Jerry Alan Arends and ending with Billy L. Little, Jr., which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Donnie W. Bethel and ending with Mitchel Neurock, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Paul A. Abson and ending with Philip A. Sweet, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Mari L. Archer and ending with Gilbert W. Wolfe, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with William A. Beyers III and ending with Ross A. Ziegler, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Robert R. Cannon and ending with Lyle E. Von Seggern, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Vito Emil Addabbo and ending with James A. Zietlow, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Azad Y. Keval and ending with Troy L. Sullivan III, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nomination of Lance A. Avery, 7092, to be Lieutenant Colonel.

Air Force nominations beginning with Billy R. Morgan and ending with Joseph R. Lowe, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nomination of Inaam A. Pedalino, 4601, to be Major.

Air Force nominations beginning with Demea A. Alderman and ending with Philip H. Wang, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nomination of Theresa D. Clark, 1549, to be Major.

Air Force nominations beginning with Lee E. Ackley and ending with Clayton D. Wilson III, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Said R. Acosta and ending with Cynthia F. Yap, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Air Force nominations beginning with Jason E. Macdonald and ending with Derek P. Mims, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Gerald K. Bebber and ending with Phillip F. Wright, which nominations were received by the Senate and appeared in the Congressional Record on September 27, 2007.

Army nominations beginning with Manuel Pozoalonso and ending with Rachelle A. Retoma, which nominations were received by the Senate and appeared in the Congressional Record on December 19, 2007.

Army nomination of Jeffrey P. Short, 6976, to be Major.

Army nomination of Saqib Ishteeaque, 7038, to be Major.

Army nominations beginning with Wanda L. Horton and ending with Ruth Slamen, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with David J. Barillo and ending with Ian D. Cole, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nomination of Joseph B. Dore, 0588, to be Colonel.

Army nomination of William J. Hersh, 6277, to be Colonel.

Army nomination of James C. Cummings, 8883, to be Colonel.

Army nomination of Eugene W. Gavin, 0749, to be Colonel.

Army nominations beginning with Bruce H. Bahr and ending with George R. Gwaltney, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008. (minus 1 nominee: Allen D. Ferry)

Army nominations beginning with David A. Brant and ending with Corliss Gadsden, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Harold A. Felton and ending with Arland O. Haney, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Anne M. Bauer and ending with Jo A. Mcelligott, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Deborah G. Davis and ending with Debra M. Simpson, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Ruben Alvero and ending with Hae S. Yuo, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Ronald L. Bonheur and ending with David S. Werner, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Gerard P. Curran and ending with Mark Tranovich, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Jeffrey A. Weiss and ending with Richard E. Wolfert, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Charles S. Oleary and ending with Gary B. Tooley, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Patrick S. Allison and ending with Shaofan K. Xu, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Edward B. Browning and ending with Billie J. Wisdom, Jr., which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nominations beginning with Sandra G. Apostolos and ending with Marilyn Yergler, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Army nomination of Orlando Salinas, 6967, to be Colonel.

Army nomination of Debra D. Rice, 3633, to be Colonel.

Army nomination of Robert J. Mouw, 4121, to be Colonel.

Army nomination of Rabi L. Singh, 2515, to be Major.

Marine Corps nomination of Lester W. Thompson, 5198, to be Major.

Marine Corps nominations beginning with Russell L. Bergeman and ending with James K. Walker, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Navy nomination of Thomas J. Harvan, 5049, to be Captain.

Navy nomination of John G. Bruening, 7092, to be Captain.

Navy nomination of John M. Dorey, 3429, to be Captain.

Navy nominations beginning with Thomas P. Carroll and ending with Gary V. Pascua, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Navy nominations beginning with David J. Robillard and ending with Sherry W. Wangwhite, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 2008.

Navy nomination of Michael V. Misiewicz, 7171, to be Commander.

Navy nomination of John A. Bowman, 5721, to be Lieutenant Commander.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2594. A bill to amend title I of the Higher Education Act of 1965 regarding institution financial aid offer form requirements; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mr. MARTINEZ):

S. 2595. A bill to create a national licensing system for residential mortgage loan originators, to develop minimum standards of conduct to be enforced by State regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DEMINT (for himself, Mr. COBURN, Mr. INHOFE, Mr. CORNYN, Mr. VITTER, and Mr. CHAMBLISS):

S. 2596. A bill to rescind funds appropriated by the Consolidated Appropriations Act, 2008, for the City of Berkeley, California, and any entities located in such city, and to provide that such funds shall be transferred to the Operation and Maintenance, Marine Corps account of the Department of Defense for the purposes of recruiting; read the first time.

By Mr. LUGAR:

S. 2597. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. KERRY, Ms. COLLINS, Mr. LIEBERMAN, and Mr. WYDEN):

S. 2598. A bill to increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

By Mr. CORKER (for himself and Mrs. MCCASKILL):

S. 2599. A bill to provide enhanced education and employment opportunities for military spouses; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 2600. A bill to provide for the designation of a single ZIP code for Windsor Heights, Iowa; to the Committee on Homeland Security and Governmental Affairs.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2601. A bill to require the Secretary of Agriculture to convey to King and Kittitas Counties Fire District No. 51 a certain parcel of real property for use as a site for a new Snoqualmie Pass fire and rescue station; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 2602. A bill to amend the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008, to terminate the authority of the Secretary of the Treasury to deduct amounts from certain States; to the Committee on Energy and Natural Resources.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Ms. MURKOWSKI, and Mr. HAGEL):

S. Res. 444. A resolution expressing the sense of the Senate regarding the strong alliance that has been forged between the United States and the Republic of Korea and congratulating Myung-Bak Lee on his election to the presidency of the Republic of Korea; to the Committee on Foreign Relations.

By Mr. DURBIN:

S. Con. Res. 65. A concurrent resolution celebrating the birth of Abraham Lincoln and recognizing the prominence the Declaration of Independence played in the development of Abraham Lincoln's beliefs; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 37

At the request of Mr. DOMENICI, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 37, a bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to assure protection of public health safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes.

S. 573

At the request of Ms. STABENOW, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 573, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 1084

At the request of Mr. AKAKA, his name was added as a cosponsor of S. 1084, a bill to provide housing assistance for very low-income veterans.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1514

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1514, a bill to revise and extend provisions under the Garrett Lee Smith Memorial Act.

S. 1818

At the request of Mr. OBAMA, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1818, a bill to amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes.

S. 1926

At the request of Mr. DODD, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from North Dakota (Mr. DORGAN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1926, a bill to establish the National Infrastructure Bank to provide funding for qualified infrastructure projects, and for other purposes.

S. 2071

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2071, a bill to enhance the ability to combat methamphetamine.

S. 2275

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2275, a bill to prohibit the manufacture, sale, or distribution in commerce of certain children's products and child care articles that contain phthalates, and for other purposes.

S. 2296

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2296, a bill to provide for improved disclosures by all mortgage lenders at the loan approval and settlement stages of all mortgage loans.

S. 2439

At the request of Mr. MENENDEZ, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2439, a bill to require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category.

S. 2549

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2549, a bill to require the Administrator of the Environmental Protection Agency to establish an Interagency Working Group on Environmental Justice to provide guidance to Federal agencies on the development of criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations, and for other purposes.

S. 2586

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Ms. CANTWELL) was added as a

cosponsor of S. 2586, a bill to provide States with fiscal relief through a temporary increase in the Federal medical assistance percentage and direct payments to States.

S. RES. 432

At the request of Mr. BIDEN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. Res. 432, a resolution urging the international community to provide the United Nations-African Union Mission in Sudan with essential tactical and utility helicopters.

AMENDMENT NO. 3910

At the request of Mrs. FEINSTEIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 3910 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3927

At the request of Mr. SPECTER, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of amendment No. 3927 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3930

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 3930 proposed to S. 2248, an original bill to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

AMENDMENT NO. 3978

At the request of Mr. WYDEN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Vermont (Mr. SANDERS), the Senator from Rhode Island (Mr. REED) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3978 intended to be proposed to H.R. 5140, a bill to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mr. MARTINEZ):

S. 2595. A bill to create a national licensing system for residential mortgage loan originators, to develop minimum standards of conduct to be enforced by State regulators, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senator MARTINEZ to introduce legislation that takes a major step forward in curbing the abusive lending practices which contributed to the subprime mortgage crisis. With foreclosures at record levels, the housing market in steady decline, a global credit crunch, and the economy nearing recession, it is imperative that we act quickly to restore confidence in the American dream of home ownership.

Our legislation will eliminate bad actors from the mortgage business, and require that brokers and lenders meet minimum national standards which ensure they are professional, competent, and trustworthy.

First, it would create a comprehensive database of all residential mortgage loan originators. This includes mortgage brokers and lenders, as well as loan officers of national banks and their subsidiaries.

Second, it would establish national licensing standards to ensure that mortgage brokers and lenders are trained in legal aspects of lending, ethics, and consumer protection.

Our bill is similar to H.R. 3012, introduced in the House by Representative SPENCER BACHUS, the Ranking Member of the House Committee on Financial Services. The national licensing concept for loan originators has enjoyed bipartisan support and was included in the comprehensive mortgage reform bill, H.R. 3915, which recently passed the House.

A combination of low interest rates and sophisticated mortgage products, among other factors, helped increase home ownership to record levels just 3 years ago.

Subprime and exotic mortgages allowed millions of Americans—many with little or no down payment and questionable credit—to purchase homes by using adjustable-rate products with low initial monthly payments.

There was explosive growth in the use of these sub-prime loans: in just 2 years, from 2004 to 2006, the number of subprime mortgages in California increased 110 percent, from 273,000 to 573,000—29.4 percent of total mortgages in the State.

While the majority of lenders and brokers offered these mortgages in a responsible fashion, many others relied upon predatory lending tactics to place unsuspecting borrowers in mortgages they could not afford. Competitive pressures and lax oversight resulted in loans of increasingly poor quality being written.

To make matters worse, consumers were not adequately protected from bad actors in the mortgage industry.

The FBI recently reported that complaints of mortgage fraud have skyrocketed over the last few years.

In 2003, the number of suspicious activity reports reviewed by the FBI economic crimes unit numbered 3,000. The number of mortgage fraud complaints increased to 48,000 last year, representing a jump of 1500 percent.

Most mortgage brokers and non-bank lenders are only lightly regulated by State agencies. Standards of accountability have not kept pace with the increasing sophistication of the mortgage industry.

As adjustable-rate mortgages reset to higher rates, many American families find themselves in homes they can no longer afford. The percentage of homeowners currently behind on their mortgage payments is at its highest level in 21 years.

Mr. President, 2.2 million homeowners filed for foreclosure last year and many lenders have gone out of business or sought bankruptcy protection.

It is projected that as many as 2 million Americans will be forced to file for foreclosure before this crisis abates, representing $160 billion in lost equity. The Center for Responsible Lending has projected that one out of every five subprime loans issued between 2005 and 2006 will fail.

California has been especially hard hit. Mr. President, 5 of the 10 metropolitan areas with the highest foreclosure rate in the Nation are in California. The foreclosure rate in California is roughly twice the national average, with 1 foreclosure filing for every 258 households in the State.

Lenders repossessed 84,375 California homes last year, a sixfold increase from 12,672 in 2006. Default notices—the initial step in the foreclosure process—increased 143 percent between 2006 and 2007, rising from 104,977 in 2006 to 254,824 in 2007. In San Diego County alone, foreclosures were up 353 percent in 2007.

According to the FBI economic crimes unit, California has been identified as one of the top 10 ''mortgage fraud hot spots'' in the Nation.

American families are hurting, and Californians are at the center of the storm. With close to 500,000 adjustable-rate mortgages scheduled to reset in California over the next 2 years, the situation is likely to worsen in 2008.

The subprime mortgage crisis has threatened both the global economy and the American dream of home ownership. Accountability, professional standards, and oversight must be enhanced for everyone in the mortgage industry.

This bill will make it so, and will help to ensure such a crisis never happens again.

Specifically, the S.A.F.E. Mortgage Licensing Act would require that all residential mortgage loan originators are licensed, providing fingerprints, a summary of work experience, and consent for a background check to authorities.

Additionally, minimum criteria are established that individuals must meet to obtain a license, including: no felony

convictions; no similar license revoked; a demonstrated record of financial responsibility; successful completion of education requirements, 20 hours of approved courses, to include at least 3 hours related to Federal laws, 4 hours on ethics and consumer protection in mortgage lending, and 2 hours on the subprime mortgage marketplace; and, passage of a written exam, the exam must be at least 100 questions and a minimum score of 75 percent is required to pass.

The Federal Reserve, Treasury, and Federal Deposit Insurance Corporation must also register all residential mortgage loan originators employed by national banks.

Lastly, State regulators must develop a satisfactory licensing system within 1 year following enactment of this legislation.

If this does not occur, the Housing and Urban Development Secretary is empowered to develop the national registry and license, generating revenue for its implementation through fees to license applicants.

The subprime mortgage crisis is wreaking havoc on American homeowners and the national economy. The damage is truly staggering—more than 2 million foreclosure filings last year and another 2 million expected before this year is over.

Many Americans simply cannot keep pace with adjustable-rate mortgages that are resetting, and some were steered into these obligations by unscrupulous actors.

It is essential that this body take action to address some of the factors that got us here.

This legislation does not assign blame, but rather provides a workable solution to protect homebuyers and begin to restore confidence in the American dream of homeownership.

I hope that my colleagues will join us in moving this important bill through the Senate quickly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2595

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Secure and Fair Enforcement for Mortgage Licensing Act of 2008'' or ''S.A.F.E. Mortgage Licensing Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:



**SEC. 2. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.**

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

(1) Provides uniform license applications and reporting requirements for State-licensed loan originators.

(2) Provides a comprehensive licensing and supervisory database.

(3) Aggregates and improves the flow of information to and between regulators.

(4) Provides increased accountability and tracking of loan originators.

(5) Streamlines the licensing process and reduces the regulatory burden.

(6) Enhances consumer protections and supports anti-fraud measures.

(7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

**SEC. 3. DEFINITIONS.**

For purposes of this Act, the following definitions shall apply:

(1) FEDERAL BANKING AGENCIES.—The term ''Federal banking agencies'' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(2) DEPOSITORY INSTITUTION.—The term ''depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(3) LOAN ORIGINATOR.—

(A) IN GENERAL.—The term ''loan originator''—

(i) means an individual who—

(I) takes a residential mortgage loan application;

(II) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or

(III) offers or negotiates terms of a residential mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

(ii) includes any individual who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will provide or perform any of the activities described in clause (i);

(iii) does not include any individual who is not otherwise described in clause (i) or (ii) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause.

(iv) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator.

(B) OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.—For purposes of this subsection, an individual ''assists a consumer in obtaining or applying to obtain a residential mortgage loan'' by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

(C) ADMINISTRATIVE OR CLERICAL TASKS.—The term ''administrative or clerical tasks'' means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(D) REAL ESTATE BROKERAGE ACTIVITY DEFINED.—The term ''real estate brokerage activity'' means any activity that involves offering or providing real estate brokerage services to the public, including—

(i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) listing or advertising real property for sale, purchase, lease, rental, or exchange;

(iii) providing advice in connection with sale, purchase, lease, rental, or exchange of real property;

(iv) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(v) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(vi) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(vii) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), (iv), (v), or (vi).

(4) LOAN PROCESSOR OR UNDERWRITER.—

(A) IN GENERAL.—The term ''loan processor or underwriter'' means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

(B) CLERICAL OR SUPPORT DUTIES.—For purposes of subparagraph (A), the term ''clerical or support duties'' may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

(5) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.—The term ''Nationwide Mortgage Licensing System and Registry'' means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American

Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Secretary under section 9.

(6) REGISTERED LOAN ORIGINATOR.—The term ''registered loan originator'' means any individual who—

(A) meets the definition of loan originator and is an employee of a depository institution or a wholly-owned subsidiary of a depository institution; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(7) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan'' means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(9) STATE-LICENSED LOAN ORIGINATOR.—The term ''State-licensed loan originator'' means any individual who—

(A) is a loan originator;

(B) is not an employee of a depository institution or any wholly-owned subsidiary of a depository institution; and

(C) is licensed by a State or by the Secretary under section 8 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(10) SUBPRIME MORTGAGE.—The term ''subprime mortgage'' means a residential mortgage loan—

(A) that is secured by real property that is used or intended to be used as a principal dwelling;

(B) that is typically offered to borrowers having weakened credit histories and reduced repayment capacity, as measured by lower credit scores, debt-to-income ratios, and other relevant criteria; and

(C) the characteristics of which may include—

(i) low initial payments based on a fixed introductory rate that expires after a short period and then adjusts to a variable index rate plus a margin for the remaining term of the loan;

(ii) very high or no limits on how much the payment amount or the interest rate may increase (referred to as ''payment caps'' or ''rate caps'') on reset dates;

(iii) limited or no documentation of the income of the borrower;

(iv) product features likely to result in frequent refinancing to maintain an affordable monthly payment; and

(v) substantial prepayment penalties or prepayment penalties that extend beyond the initial fixed interest rate period.

(11) UNIQUE IDENTIFIER.—The term ''unique identifier'' means a number or other identifier that—

(A) permanently identifies a loan originator; and

(B) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

**SEC. 4. LICENSE OR REGISTRATION REQUIRED.**

(a) IN GENERAL.—An individual may not engage in the business of a loan originator without first—

(1) obtaining and maintaining, through an annual renewal—

(A) a registration as a registered loan originator; or

(B) a license and registration as a State-licensed loan originator; and

(2) obtaining a unique identifier.

(b) LOAN PROCESSORS AND UNDERWRITERS.—

(1) SUPERVISED LOAN PROCESSORS AND UNDERWRITERS.—A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator or a registered loan originator.

(2) INDEPENDENT CONTRACTORS.—A loan processor or underwriter may not work as an independent contractor unless such processor or underwriter is a State-licensed loan originator or a registered loan originator.

**SEC. 5. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.**

(a) BACKGROUND CHECKS.—In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including—

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain—

(A) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) ISSUANCE OF LICENSE.—The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has never had a loan originator or similar license revoked in any governmental jurisdiction.

(2) The applicant has never been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this Act.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(c) PRE-LICENSING EDUCATION OF LOAN ORIGINATORS.—

(1) MINIMUM EDUCATIONAL REQUIREMENTS.—In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the subprime mortgage marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), pre-licensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer pre-licensure educational courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

(d) TESTING OF LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by an approved test provider.

(2) QUALIFIED TEST.—A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless—

(A) the test consists of a minimum of 100 questions; and

(B) the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including—

(i) ethics;

(ii) Federal law and regulation pertaining to mortgage origination;

(iii) State law and regulation pertaining to mortgage origination; and

(iv) Federal and State law and regulation, including instruction on fraud, consumer protection, subprime mortgage marketplace, and fair lending issues.

(3) MINIMUM COMPETENCE.—

(A) PASSING SCORE.—An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) INITIAL RETESTS.—An individual may retake a test 3 consecutive times with each consecutive taking occurring in less than 14 days after the preceding test.

(C) SUBSEQUENT RETESTS.—After 3 consecutive tests, an individual shall wait at least 14 days before taking the test again.

(D) RETEST AFTER LAPSE OF LICENSE.—A State-licensed loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered loan originator.

(e) MORTGAGE CALL REPORTS.—Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

**SEC. 6. STANDARDS FOR STATE LICENSE RENEWAL.**

(a) IN GENERAL.—The minimum standards for license renewal for State-licensed loan originators shall include the following:

(1) The loan originator continues to meet the minimum standards for license issuance.

(2) The loan originator has satisfied the annual continuing education requirements described in subsection (b).

(b) CONTINUING EDUCATION FOR STATE-LICENSED LOAN ORIGINATORS.—

(1) IN GENERAL.—In order to meet the annual continuing education requirements referred to in subsection (a)(2), a State-licensed loan originator shall complete at least 8 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the subprime mortgage marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), continuing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) CALCULATION OF CONTINUING EDUCATION CREDITS.—A State-licensed loan originator—

(A) may only receive credit for a continuing education course in the year in which the course is taken; and

(B) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) INSTRUCTOR CREDIT.—A State-licensed loan originator who is approved as an instructor of an approved continuing education course may receive credit for the originator's own annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

(5) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer any continuing education courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

**SEC. 7. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL BANKING AGENCIES.**

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Federal banking agencies shall jointly, through the Federal Financial Institutions Examination Council, develop and maintain a system for registering employees of depository institutions or subsidiaries of depository institutions as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of the enactment of this Act.

(2) REGISTRATION REQUIREMENTS.—In connection with the registration of any loan originator who is an employee of a depository institution or a wholly-owned subsidiary of a depository institution with the Nationwide Mortgage Licensing System and Registry, the appropriate Federal banking agency shall, at a minimum, furnish or cause to be furnished to the Nationwide Mortgage Licensing System and Registry information concerning the employees's identity, including—

(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) COORDINATION.—

(1) UNIQUE IDENTIFIER.—The Federal banking agencies, through the Financial Institutions Examination Council, shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.

(2) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY DEVELOPMENT.—To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Federal banking agencies, through the Financial Institutions Examination Council, concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

(c) CONSIDERATION OF FACTORS AND PROCEDURES.—In establishing the registration procedures under subsection (a) and the protocols for assigning a unique identifier to a registered loan originator, the Federal banking agencies shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 4(a), shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this Act.

**SEC. 8. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.**

(a) BACK UP LICENSING SYSTEM.—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this Act or at any time thereafter, the Secretary determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 5 and 6 and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the Secretary shall provide for the establishment and maintenance of a system for the licensing and registration by the Secretary of loan originators operating in such State as State-licensed loan originators.

(b) LICENSING AND REGISTRATION REQUIREMENTS.—The system established by the Secretary under subsection (a) for any State shall meet the requirements of sections 5 and 6 for State-licensed loan originators.

(c) UNIQUE IDENTIFIER.—The Secretary shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Secretary as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) STATE LICENSING LAW REQUIREMENTS.—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Secretary determines the law satisfies the following minimum requirements:

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(e) TEMPORARY EXTENSION OF PERIOD.—The Secretary may extend, by not more than 12 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 5 and 6 and subsection (d) if the Secretary determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

(f) LIMITATION ON HUD-LICENSED LOAN ORIGINATORS.—Any loan originator who is licensed by the Secretary under a system established under this section for any State may not use such license to originate loans in any other State.

(g) CONTRACTING AUTHORITY.—The Secretary may enter into contracts with qualified independent parties, as necessary to efficiently fulfill the obligations of the Secretary under this Section.

**SEC. 9. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.**

If at any time the Secretary determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this Act for a comprehensive licensing, supervisory, and tracking system for loan originators, the Secretary shall establish and maintain such a system to carry out the purposes of this Act and the effective registration and regulation of loan originators.

**SEC. 10. FEES.**

The Federal banking agencies, the Secretary, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.

**SEC. 11. BACKGROUND CHECKS OF LOAN ORIGINATORS.**

(a) ACCESS TO RECORDS.—Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) AGENT.—For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and distributing information between the Department of Justice and the appropriate State agencies.

**SEC. 12. CONFIDENTIALITY OF INFORMATION.**

(a) SYSTEM CONFIDENTIALITY.—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 9, and any privilege

arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) NONAPPLICABILITY OF CERTAIN REQUIREMENTS.—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—

(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Secretary with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) COORDINATION WITH OTHER LAW.—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) PUBLIC ACCESS TO INFORMATION.—This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

**SEC. 13. LIABILITY PROVISIONS.**

The Secretary, any State official or agency, any Federal banking agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 9, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good-faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

**SEC. 14. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.**

(a) SUMMONS AUTHORITY.—The Secretary may—

(1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 8; and

(2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Secretary or any delegate of the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this Act.

(b) EXAMINATION AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes a licensing system under section 8 for any State, the Secretary shall appoint examiners for the purposes of administering such section.

(2) POWER TO EXAMINE.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Secretary, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 8 whenever the Secretary determines an examination of any loan originator is necessary to determine the compliance by the originator with this Act.

(3) REPORT OF EXAMINATION.—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Secretary.

(4) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Secretary under section 8, or with other types of investigations to determine compliance with applicable law and regulations, the Secretary and examiners appointed by the Secretary may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) ASSESSMENTS.—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 8 shall be assessed by the Secretary against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) CEASE AND DESIST PROCEEDING.—

(1) AUTHORITY OF SECRETARY.—If the Secretary finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this Act, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Secretary under section 8, the Secretary may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Secretary may specify in such order. Any such order may, as the Secretary deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Secretary may specify, with such provision or regulation with respect to any loan originator.

(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Secretary with the consent of any respondent so served.

(3) TEMPORARY ORDER.—Whenever the Secretary determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion of the proceedings, the Secretary may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the Secretary deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Secretary determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Secretary or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

(4) REVIEW OF TEMPORARY ORDERS.—

(A) REVIEW BY SECRETARY.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Secretary to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior hearing before the Secretary, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Secretary shall hold a hearing and render a decision on such application at the earliest possible time.

(B) JUDICIAL REVIEW.—Within—

(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior hearing before the Secretary; or

(ii) 10 days after the Secretary renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior hearing before the Secretary,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior hearing before the Secretary may not apply to the court except after hearing and decision by the Secretary on the respondent's application under subparagraph (A).

(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

(5) AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.—In any cease-and-desist proceeding under paragraph (1), the Secretary may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the Secretary shall determine, any person who has violated this Act or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

(d) AUTHORITY OF THE SECRETARY TO ASSESS MONEY PENALTIES.—

(1) IN GENERAL.—The Secretary may impose a civil penalty on a loan originator operating in any State which is subject to licensing system established by the Secretary under section 8, if the Secretary finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of

this Act or any regulation prescribed by the Secretary under this Act or order issued under subsection (c).

(2) MAXIMUM AMOUNT OF PENALTY.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for each day the violation continues.

**SEC. 15. PREEMPTION OF STATE LAW.**

Nothing in this Act may be construed to preempt the law of any State, to the extent that such State law provides greater protection to consumers than is provided under this Act.

**SEC. 16. REPORTS AND RECOMMENDATIONS TO CONGRESS.**

(a) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the effectiveness of the provisions of this Act, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, and streamlining communication between all stakeholders involved in residential mortgage loan origination and processing.

(b) LEGISLATIVE RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974, that the Secretary deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

**SEC. 17. STUDY AND REPORTS ON DEFAULTS AND FORECLOSURES.**

(a) STUDY REQUIRED.—The Secretary shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as is available.

(b) PRELIMINARY REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress a preliminary report regarding the study required by this section.

(c) FINAL REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.

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By Mr. LUGAR:

S. 2597. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova; to the Committee on Finance.

Mr. LUGAR. Mr. President, I rise today to introduce legislation designed to extend permanent normal trade relations to Moldova. Moldova is still subject to the provisions of the Jackson-Vanik amendment to the Trade Act of 1974, which sanctions nations for failure to comply with freedom of emigration requirements. This bill would repeal permanently the application of Jackson-Vanik to Moldova.

Moldova is a small country located between Ukraine and Romania. Throughout the Cold War it was a part of the Soviet Union. It gained its independence from the Soviet Union on August 27, 1991. The U.S. has supported Moldova in its journey toward democracy and sovereignty.

The U.S. enjoys good relations with Moldova and has encouraged Moldovan efforts to integrate with Euro-Atlantic institutions. Moldova is an active participant in Guam, Georgia, Ukraine, Azerbaijan and Moldova, a group of countries that has recently concluded a new trade agreement with the EU.

Since declaring independence from the Soviet Union in 1992, Moldova has enacted a series of democratic and free market reforms. In 2001, Moldova became a member of the World Trade Organization. Until the U.S. terminates application of Jackson-Vanik on Moldova, the U.S. will not benefit from Moldova's market access commitments nor can it resort to WTO dispute resolution mechanisms. While all other WTO members currently enjoy these benefits, the U.S. does not.

The Republic of Moldova has been evaluated every year and granted normal trade relations with the U.S. through annual presidential waivers from the effects of Jackson-Vanik. The Moldovan constitution guarantees its citizens the right to emigrate and this right is respected in practice. Most emigration restrictions were eliminated in 1991 and virtually no problems with emigration have been reported in the 16 years since independence. More specifically, Moldova does not impose emigration restrictions on members of the Jewish community. Synagogues function openly and without harassment. As a result, the Administration finds that Moldova is in full compliance with Jackson-Vanik's provisions.

Since declaring independence from the Soviet Union in 1992, Moldova has enacted a series of democratic and free market reforms. Parliamentary elections in 2005 and local elections in 2007 generally complied with international standards for democratic elections. Moldova has also contributed constructively towards a resolution of the longstanding separatist conflict in the country's Transniestria region, most recently by proposing a series of confidence-building measures and working groups.

The U.S. and Moldova have established a strong record of achievement in security cooperation. In 1997 the Nunn-Lugar Cooperative Threat Reduction Program responded to a Moldovan request for assistance. The U.S. purchased and secured 14 nuclear-capable MiG–29Cs from Moldova. These fighter aircraft were built by the former Soviet Union to launch nuclear weapons. Moldova expressed concern that these aircraft were unsecure due to the lack of funds and equipment necessary to ensure they were not stolen or smuggled out of the country. Specifically, emissaries from Iran had shown great interest and had attempted to acquire the aircraft. These planes were not destroyed. They were disassembled and shipped to Wright Patterson Air Force Base because they can be used by American experts for research purposes.

Moldova has made small, but important, troop contributions in Iraq. These contributions include significant demining capabilities and contingents of combat troops. I am pleased that the U.S. remains prepared to assist in weapons and ammunition disposal and force relocation assistance to help deal with the costs of military realignments in Moldova and to assist with military downsizing and reforms.

One of the areas where we can deepen U.S.-Moldovan relations is bilateral trade. In light of its adherence to freedom of emigration requirements, compliance with threat reduction and cooperation in the global war on terrorism, the products of Moldova should not be subject to the sanctions of Jackson-Vanik. The U.S. must remain committed and engaged in assisting Moldova in pursuing economic and development reforms. The government in Chisinau still has important work to do in these critical areas. The support and encouragement of the U.S. and the international community will be key to encouraging the Government of Moldova to take the necessary steps to initiate reform. The permanent waiver of Jackson-Vanik and establishment of permanent normal trade relations will be the foundation on which further progress in a burgeoning economic and energy partnership can be made.

I am hopeful that my colleagues will join me in supporting this important legislation. It is essential that we act promptly to bolster this important relationship and promote stability in this region.

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By Mr. DORGAN (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. KERRY, Ms. COLLINS, Mr. LIEBERMAN, and Mr. WYDEN):

S. 2598. A bill to increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

Mr. DORGAN. Mr. President, today I am pleased to introduce the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2007. This bill directs the Secretary of Energy to suspend filling of the U.S. Strategic Petroleum Reserve, SPR, for 1 year. I appreciate that Senators BINGAMAN, LEVIN, KERRY, COLLINS, LIEBERMAN, and WYDEN have joined me as original cosponsors of this legislation. This bill directs the Secretary to stop filling the reserve through direct purchase, royalty-in-kind or any other measures. The secretary may only resume filling if the price of a barrel of crude oil drops below $50 per barrel during the remainder of 2008.

The price of a barrel of oil is reaching record highs and global supplies of oil continue to shrink. During this period of volatile markets and short supply, it makes no sense to me for the U.S. Government to continue to take highly valuable crude oil, especially light sweet crude, off the market to store underground in a reserve that is at least 96 percent full. Continuing to

''top off'' the Strategic Petroleum Reserve with highly valuable crude oil is putting upward pressure on oil prices and raising energy prices for consumers.

I believe that we must take a ''time out'' from filling the reserve in order to send a signal to the market to reduce rising energy prices that are hitting American consumers' pocketbooks. Lowering energy costs will put additional money back into consumers' hands and will help provide a real stimulus to our economy in my judgment.

Historically, the average price of oil used to fill the Strategic Petroleum Reserve has been about $27 per barrel. The Administration is now filling the Reserve with oil that averages over $90 per barrel, including highly sought after light sweet crude. This is a bad deal for American taxpayers and consumers.

On January 8, 2008, the Secretary of Energy sent me a letter stating that our Strategic Petroleum Reserve contains only 57 days of import protection and that the 50,000 barrels per day they are filling with is a small amount of the oil used on the global market daily. This is only part of the story. The fact is that the SPR, combined with our private oil stocks and refining inventories, total more than 118 days of import protection. The current levels in our strategic petroleum stocks are more than adequate to meet our international treaty obligations requiring 90 days of import protection for all OECD countries. I also disagree that taking 50,000 barrels per day off the market, especially light sweet crude, has no impact on energy prices. During the Clinton administration, Congress signaled that it wanted more than $200 million sold from the SPR in 1996, the price of oil dropped precipitously in the market. The market looks at many factors, including our filling of the SPR. This is another reason we can afford to temporarily suspend filling the Strategic Petroleum Reserve.

Further, the Energy Policy Act of 2005 provides directional guidance to expand the Strategic Petroleum Reserve. The provision in law clearly states that filling the reserve must be achieved ''without incurring excessive cost or appreciably affecting the price of petroleum products to consumers.'' I think filling the Strategic Petroleum Reserve in today's environment is indeed impacting the price of petroleum so that we must defer filling for now to ease pressure on the market.

Finally, the Congress enacted and the President signed historic legislation in December 2008—the Energy Independence and Security Act of 2007. That legislation established a strong foundation to put our Nation on an alternative energy security pathway. This includes strong fuel economy standards and an expanded renewable fuels standard. Conservative estimates provided by the Securing America's Future Energy Coalition show that the new legislation would reduce net oil imports by 1.75 million barrels per day by 2020, increasing to 2.26 million barrels per day in 2022 and rising thereafter. These estimates represent roughly half of the theoretical SPR drawdown capacity of 4.4 million barrels per day. They also increase the number of days of protection afforded by a given quantity of oil in the SPR. Thus, our enactment of historic Energy legislation will, over time, increase the insurance value of the SPR, even if the actual inventory level is frozen or slightly decreased.

Let me be clear. I believe maintaining a Strategic Petroleum Reserve is in the economic and national security interests of this country. However, during this time of record oil prices, rising energy costs for consumers, economic downturn and tight global oil supplies, the U.S. Government should suspend taking highly valuable oil off the market to store underground in the Strategic Petroleum Reserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2598

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008''.

**SEC. 2. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during calendar year 2008, the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program or any other acquisition method.

(b) RESUMPTION.—The Secretary may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program or any other acquisition method under subsection (a) not earlier than 30 days after the date on which the Secretary notifies Congress that the Secretary has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $50 or less per barrel.

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By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 2600. A bill to provide for the designation of a single ZIP code for Windsor Heights, Iowa; to the Committee on Homeland Security and Governmental Affairs.

Mr. HARKIN. Mr. President, today I rise with my colleague from Iowa to introduce a bill to provide the town of Windsor Heights, IA, its own ZIP code. Currently, the residents of Windsor Heights share three ZIP codes with surrounding communities, Des Moines, West Des Moines, and Urbandale. Confusion between the ZIP codes and city boundaries has caused delays in mail delivery, an increased amount of undelivered mail, and numerous complaints from frustrated citizens. Each day sensitive materials, including financial statements, credit cards, Social Security checks, and passports pass through the mail stream. It is imperative that residents are able to rely on the safe and timely delivery of these documents.

The complications from this problem reach beyond mail delivery. During the recent Iowa Caucuses, residents living in Windsor Heights Precinct 2 were directed to the wrong address when looking for their caucus location. Windsor Heights residents who use the 50322 ZIP code—one which is shared with neighboring Urbandale—were incorrectly advised that the caucus location was in Urbandale, rather than Windsor Heights. Furthermore, because insurance rates are based on ZIP codes, residents pay premiums based on neighboring Des Moines and Urbandale, rather than Windsor Heights, making it more difficult for providers to sell car insurance to residents.

City officials have tried in vain for almost 5 years to acquire a ZIP code for Windsor Heights. It is my hope that the Senate will quickly act upon this legislation to enable them to do so.

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By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2601. A bill to require the Secretary of Agriculture to convey to King and Kittitas Counties Fire District No. 51 a certain parcel of real property for use as a site for a new Snoqualmie Pass fire and rescue station; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, today I am introducing the Snoqualmie Pass Land Conveyance Act, together with Senator MURRAY. This bill would transfer an acre and a half of Forest Service land to the King and Kittitas Counties Fire District No. 51, also known as Snoqualmie Pass Fire and Rescue. This land would be conveyed at no cost, but would have to be used by the Fire District specifically for the construction of a new fire station or it would revert back to the Federal Government.

Snoqualmie Pass Fire and Rescue serves a portion of two counties on both sides of the Cascade Mountains along Interstate 90, a community of 350 full-time residents that peaks to 1,500 during the ski season. Additionally, the ski area estimates 20,000 patrons on a busy weekend, and the Department of Transportation estimates that up to 60,000 vehicles travel through the fire district on a busy day making it the busiest mountain highway in the country.

This area is also the major transportation corridor for goods and services between eastern and western Washington. The all-volunteer Fire Department averages over 300 calls a year with about a 10 percent annual increase in call volumes, which is more than triple the amount of calls a typical all-volunteer fire department would respond to in a year. Mr. Presdient, 84

percent of those incidents are for non-tax paying residents. Consequently, the Fire Department has the characteristics of a large city with the limited resources of a small community.

In recent years, this area has been the scene of major winter snowstorms, multi-vehicle accidents, and even avalanches. The Fire District is often the first responder to incidents in the area, which is prone to rock slides and avalanches and it is not uncommon for this community to be isolated for hours or even days at a time. Several thousand people can be stranded at the Pass during those periods when the Pass is closed and while the Department of Transportation works quickly to get the roads back open, it can be very taxing on local resources.

For decades, the Fire District has been leasing its current site from the Forest Service. They operate out of an aging building that was not designed to be a fire station. Through their hard work and dedication, they have served their community ably despite this building's many shortcomings. However, with traffic on the rise and the need for emergency services in the area growing, the Fire District needs to move to a true fire station.

The Fire District has identified a nearby site that would better serve the public safety needs at the Pass. This location would provide easy access to the interstate in either direction, reducing emergency response times. The parcel is on Forest Service property, immediately adjacent to a freeway interchange, between a frontage road and the interstate itself. The parcel was formerly a disposal site during construction of the freeway and is now a gravel lot.

I recognize that the Forest Service does not normally support conveyances of land free of charge. However, I believe an exception should be made in this particular circumstance because of the important public service provided by the Fire District, the heavy traffic and emergency calls created by non-residents in the area, the distance of Snoqualmie Pass from other communities with emergency services, and because of the high amount of federal land ownership in the area, which severely limits the local tax base. In fact, the Forest Service has acquired 20,000 acres in King and Kittitas counties at a cost of more than $52 million over just the last 10 years.

Passage of this legislation would not guarantee that a new station would be built. The Fire District would have to work hard to gather the financing that would be required from State and local sources, as well as any applicable Federal grants or loans. However, the conveyance of this site at no cost would help this Fire District hold down the overall cost of this project.

I am confident this can be done with little or no impact to the environment. Over the last year, following the introduction of this legislation in the House of Representatives, H.R. 1285, there were ongoing discussions in Washington State to address some lingering issues related to this conveyance. I am pleased those discussions reached resolution. I am also pleased that discussions with my staff, Senator MURRAY's staff, and staff of Energy and Natural Resources Committee led to an amendment to H.R. 1285 before it passed the House of Representatives that would better tailor the conveyance to both the environmental and the emergency response needs at the Pass by reducing the amount of land to be conveyed from 3 acres to 1.5 acres.

It is my understanding that there are offers of support to construct a new fire station from state and local officials, and to mitigate any effects of construction, and I support those efforts. To offset any potential impacts from construction of a new fire station and to improve wildlife connectivity at the pass, I encourage the Forest Service to work in collaboration with state and local officials, the Cascade Land Conservancy, Snoqualmie Fire District, Sierra Club, and Conservation Northwest to identify opportunities for off-site habitat acquisition.

I appreciate the efforts of Senator MURRAY and my colleagues on the Energy and Natural Resources Committee to review this issue and bring this bill forward. I look forward to continuing to work with the community at the Pass and my colleagues to improve public safety in the area.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 2601

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Snoqualmie Pass Land Conveyance Act''.

**SEC. 2. LAND CONVEYANCE, NATIONAL FOREST SYSTEM LAND, KITTITAS COUNTY, WASHINGTON.**

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture (referred to in this section as the ''Secretary'') shall convey, without consideration, to King and Kittitas Counties Fire District No. 51 of King and Kittitas Counties, Washington (referred to in this section as the ''District''), all right, title, and interest of the United States in and to a parcel of National Forest System land in Kittitas County, Washington, consisting of approximately 1.5 acres within the SW ¼ of the SE ¼ of sec. 4, T. 22 N., R. 11 E., Willamette meridian, for the purpose of permitting the District to use the parcel as a site for a new Snoqualmie Pass fire and rescue station.

(b) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in that subsection—

(A) all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States; and

(B) the United States shall have the right of immediate entry onto the property.

(2) DETERMINATION REQUIREMENTS.—A determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) SURVEY.—

(1) IN GENERAL.—If necessary, the exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(2) COST.—The cost of a survey under paragraph (1) shall be paid by the District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers to be appropriate to protect the interests of the United States.

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By Mr. SALAZAR:

S. 2602. A bill to amend the Department of the Interior, Environment, and Related Agencies appropriations Act, 2008, to terminate the authority of the Secretary of the Treasury to deduct amounts from certain States; to the Committee on Energy and Natural Resources.

Mr. SALAZAR. Mr. President, I rise today to introduce legislation—a companion bill will be introduced in the House by my colleagues Representatives SALAZAR and UDALL—to restore Colorado's share of oil and gas leasing revenue.

The 2008 Omnibus Appropriations bill includes a provision, requested by the Bush Administration, to reduce the share of mineral royalties paid to Colorado and other western states. Specifically, the administration's proposal to reduce the State's share of mineral revenues from 50 percent to 48 percent does not serve the taxpayers who fund the government nor does it serve the states that allow energy production to happen within their borders. Colorado is blessed with an abundance of natural resources, including its deposits of oil and natural gas. Our State's economy benefits from the production of these resources, and we deserve to continue receiving our fair share of the revenues.

The administration attempts to justify this reduction as necessary to defray the administrative costs related to the management of onshore leasing activity. We believe this assertion is unfounded and oppose any attempt to take money that is rightfully owed to our State in order to pay for more Federal bureaucracy. This is money that our state could use to help mitigate the effects of increased oil and gas drilling activity and for other important state priorities, such as education and health care.

Our legislation repeals the administration's money grab and restores each State's share to its full, coequal 50 percent of mineral leasing revenues. We cannot allow the Federal government to take oil and gas leasing revenues intended to help the communities of Colorado. This language was inserted late into last year's omnibus spending bill and must be corrected. Our legislation does just that.

SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 444—EXPRESSING THE SENSE OF THE SENATE REGARDING THE STRONG ALLIANCE THAT HAS BEEN FORGED BETWEEN THE UNITED STATES AND THE REPUBLIC OF KOREA AND CONGRATULATING MYUNG-BAK LEE ON HIS ELECTION TO THE PRESIDENCY OF THE REPUBLIC OF KOREA

Mr. BIDEN (for himself, Ms. MURKOWSKI, and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 444

Whereas the United States and the Republic of Korea enjoy a comprehensive alliance partnership founded in shared strategic interests and cemented by a commitment to democratic values;

Whereas the alliance between the United States and the Republic of Korea has been forged in blood and honed by struggles against common adversaries;

Whereas on December 19, 2007, the Senate passed S. Res. 279, marking the 125th anniversary of the 1882 Treaty of Peace, Amity, Commerce and Navigation between the Kingdom of Chosun (Korea) and the United States, and recognizing that ''the strength and endurance of the alliance between the United States and the Republic of Korea should be acknowledged and celebrated'';

Whereas during the 60 years since the founding of the Republic of Korea on August 15, 1948, the Republic of Korea, with unwavering commitment and support from the United States, has accomplished a remarkable economic and political transformation, rising from poverty to become the 11th largest economy in the world and a thriving multi-party democracy;

Whereas the Republic of Korea is the United States' seventh largest trading partner and the United States is the third largest trading partner of the Republic of Korea, with nearly $80,000,000,000 in goods and services passing between the 2 countries each year;

Whereas there are deep cultural and personal ties between the people of the United States and the people of the Republic of Korea, as exemplified by the large flow of visitors and exchanges each year between the 2 countries and the nearly 2,000,000 Korean Americans who currently reside in the United States;

Whereas the United States and the Republic of Korea are working together to address the threat posed by North Korea's nuclear weapons program and to build a lasting peace on the Korean Peninsula;

Whereas this alliance is promoting international peace and security, economic prosperity, human rights and the rule of law, not only on the Korean Peninsula, but also throughout the world; and

Whereas Myung-Bak Lee, who won election to become the next President of the Republic of Korea, has affirmed his deep commitment to further strengthening the alliance between the United States and the Republic of Korea, by expanding areas of cooperation and realizing the full potential of our mutually beneficial partnership: Now, therefore, be it

*Resolved*, That the Senate congratulates Myung-Bak Lee on his election to the presidency of the Republic of Korea and wishes him and the Korean people well on his inauguration on February 25, 2008.

Mr. BIDEN. Mr. President, today I introduce a resolution expressing the sense of the U.S. Senate regarding the strong alliance that has been forged between the U.S. and the Republic of Korea, ROK, and congratulating Myung-Bak Lee on his election to the presidency of the ROK.

The U.S.-ROK Alliance is no ordinary alliance. It was forged in desperate struggle against North Korean aggressors, and it has been honed by more than 50 years of joint military operations on and off the Korean Peninsula. On the peninsula, ROK and U.S. forces stand shoulder-to-shoulder, keeping the peace as they have done for 55 years. Off the peninsula, South Korean troops have fought alongside U.S. forces in Vietnam, Iraq twice, and Afghanistan. Even today, South Korea has more than 1,000 troops in Iraq. And Seoul voted last December to keep at least 600 troops in Iraq through the end of this year.

The willingness of South Korea to devote blood and treasure to struggles far from its shores is not only a testimony to the loyalty of the Korean people to the American people, who came to their aid in a time of need, but also proof of the convergent national interests of the U.S. and the Republic of Korea.

The U.S.–ROK Alliance is rooted in common strategic interests, but it is also fortified by common democratic values. South Korea has developed a vibrant democratic system, with strong protections for civil liberties and human rights. It was not always thus.

South Korea's journey from authoritarianism and poverty to democracy and prosperity has been a long one—four decades of hard work by the Korean people. Democracy did not come without sacrifices. The South Korean government's bloody suppression of the Kwangju democracy uprising of May 1980, left thousands of unarmed civilian protestors dead or injured. Although the dictatorship persisted for another 7 years, the democratic aspirations of the Korean people could not be denied.

In the end, the Korean people accomplished a remarkably peaceful transition from dictatorship to democracy. By also building a robust economy that has lifted millions out of poverty, the Republic of Korea has provided a model for other developing nations in East Asia and beyond. South Korea is a world in information technology, with a much higher rate of broadband internet access, 30 percent, and more broadband total users, 15 million, than the United Kingdom, 24 percent, 14 million, or France, 22 percent, 14 million.

Just as Korea is no ordinary ally, President-elect Lee is no ordinary South Korean politician. The son of a farm worker, Lee was born in Osaka, Japan, on December 19, 1941, returning to Korea with his parents only after the end of World War II. As a boy, Lee worked with his mother, who sold ice cream, cakes, and other sundries to supplement the family's income. He worked as a garbage collector to help pay for school expenses, eventually earning admission to the prestigious Korea University to study business administration.

In 1965, Lee joined Hyundai Engineering and Construction company, which had only 90 employees at the time. Over the course of 30 years at Hyundai, he advanced from junior executive to chairman, and helped build Hyundai into a global force in automotive manufacturing, construction, and real estate, with 160,000 employees.

Lee's entry into politics came only after he had retired from his Hyundai career. He was elected Mayor of Seoul, Korea's capital and largest city, on a platform stressing a balance between economic development and environmental protection. He told the city's people that he would remove the elevated highway that ran through the heart of Seoul and restore the buried Cheonggyecheon stream—an urban waterway that Lee himself had helped pave over in the 1960s. His opponents insisted that the plan would cause traffic chaos and cost billions. Three years later, Cheonggyecheon was reborn, changing the face of Seoul. Lee also revamped the city's transportation system, adding clean rapid-transit buses.

President-elect Lee stressed during his campaign that the U.S.–ROK alliance would be the cornerstone of Korea's security policy, and that strengthening and deepening the alliance would be a top priority for his administration. On North-South relations, he has pledged to sustain South Korea's engagement and investment in the North. But he has also articulated a policy of ''tough love,'' saying that he will consider progress on denuclearization as his government ponders major new investments designed to help modernize North Korea's economy.

Today, as the people of the U.S. and the Republic of Korea look to the future, we can take comfort from the fact that we need not confront the challenges of North Korea's nuclear ambitions, terrorism, energy security, and global climate change alone.

Working together, we will convince North Korea to abandon its nuclear weapons program and build a lasting peace on the Korean Peninsula. Working together, we can help inspire good governance and promote economic growth in Asia and beyond. We can lead by example and demonstrate that nations that respect the human rights of their citizens are nations that are innovative, prosperous, and peaceful.

It is in celebration of the promise of this important partnership that I rise today, in concert with the Senator from Alaska, Senator MURKOWSKI, to offer a resolution marking another milestone in South Korea's democracy—the election of Myung-Bak Lee as President—and wishing him and the

Korean people well as they embark on the next stage of South Korea's remarkable journey from the horrors of the Korean War to the bright future that is today arriving at light speed in the Republic of Korea.

## SENATE CONCURRENT RESOLUTION 65—CELEBRATING THE BIRTH OF ABRAHAM LINCOLN AND RECOGNIZING THE PROMINENCE THE DECLARATION OF INDEPENDENCE PLAYED IN THE DEVELOPMENT OF ABRAHAM LINCOLN'S BELIEFS

Mr. DURBIN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 65

Whereas Abraham Lincoln, the 16th President of the United States, was born of humble roots on February 12, 1809, in Hardin County, Kentucky;

Whereas Abraham Lincoln rose to political prominence as an attorney with a reputation for fairness, honesty, and a belief that all men are created equal and that they are endowed by their Creator with certain unalienable rights;

Whereas Abraham Lincoln was elected and served with distinction in 1832 as a captain of an Illinois militia company during the Black Hawk War;

Whereas Abraham Lincoln was elected to the Illinois legislature in 1834 from Sangamon County and was successively reelected until 1840;

Whereas Abraham Lincoln revered the Declaration of Independence, forming the motivating moral and natural law principle for his opposition to the spread of slavery to new States entering the Union and to his belief in slavery's ultimate demise;

Whereas Abraham Lincoln was elected in 1846 to serve in the United States House of Representatives, ably representing central Illinois;

Whereas Abraham Lincoln re-entered political life as a reaction to the passage of the Kansas-Nebraska Act in 1854, which he opposed;

Whereas Abraham Lincoln expounded on his views of natural rights during the series of debates with Stephen A. Douglas in 1858, declaring in Charleston, Illinois that natural rights were ''enumerated in the Declaration of Independence, the right to life, liberty and the pursuit of happiness'', and these views brought Lincoln into national prominence;

Whereas Abraham Lincoln, through a legacy of courage, character, and patriotism, was elected to office as the 16th President of the United States on November 6, 1860;

Whereas Abraham Lincoln believed the Declaration of Independence to be the anchor of American republicanism, stating on February 22, 1861, during an address at Independence Hall in Philadelphia, Pennsylvania that, ''I have never had a feeling politically that did not spring from the sentiments embodied in the Declaration of Independence . . . I have often inquired of myself, what great principle or idea it was that kept this Confederacy so long together. It was not the mere matter of separation of the Colonies from the motherland; but that sentiment in the Declaration of Independence which gave liberty, not alone to the people of this country, but, I hope, to the world, for all future time. It was that which gave promise that in due time the weight would be lofted from the shoulders of men'';

Whereas, upon taking office and being thrust into the midst of the Civil War, President Abraham Lincoln wrote the Emancipation Proclamation, freeing all slaves in southern States that seceded from the Union on January 1, 1863;

Whereas, on November 19, 1863, Abraham Lincoln dedicated the battlefield at Gettysburg, Pennsylvania with the Gettysburg Address, which would later be known as his greatest speech, that harkened back to the promises of the Declaration of Independence in the first sentence: ''Four score and seven years ago, our fathers brought forth, on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal'';

Whereas Abraham Lincoln was reelected to the presidency on November 8, 1864, by 55 percent of the popular vote;

Whereas Abraham Lincoln gave the ultimate sacrifice for his country, dying 6 weeks into his second term on April 15, 1865;

Whereas the year 2009 will be the bicentennial anniversary of the birth of Abraham Lincoln, and the United States will observe 2 years of commemorations beginning February 12, 2008; and

Whereas all Americans could benefit from studying the life of Abraham Lincoln as a model of achieving the American Dream through honesty, integrity, loyalty, and a lifetime of education: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) requests that the President issue a proclamation each year recognizing the anniversary of the birth of President Abraham Lincoln and calling upon the people of the United States to observe such anniversary with appropriate ceremonies and activities; and

(2) encourages State and local governments and local educational agencies to devote sufficient time to study and appreciate the reverence and respect Abraham Lincoln had for the significance and importance of the Declaration of Independence in the development of American history, jurisprudence, and the spread of freedom around the world.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3989. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table.

SA 3990. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 3991. Mr. SANDERS (for himself, Mr. AKAKA, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 3992. Mr. BROWN (for himself, Mrs. BOXER, Mr. BINGAMAN, Mr. SANDERS, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 3993. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 3994. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 3995. Mr. NELSON, of Florida (for himself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 3996. Mr. NELSON, of Florida (for himself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 3997. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3893 submitted by Mr. BROWNBACK (for himself, Mr. DORGAN, Ms. CANTWELL, and Mr. INOUYE) to the amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table.

SA 3998. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table.

SA 3999. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4000. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4001. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4002. Mr. SANDERS (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4003. Mr. SANDERS (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4004. Mr. SANDERS (for himself, Mrs. CLINTON, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4005. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4006. Mr. CHAMBLISS (for himself, Mr. CRAPO, Mr. DEMINT, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4007. Mr. WYDEN (for himself, Mr. THUNE, Mr. DODD, Mr. SHELBY, Mrs. CLINTON, Mr. DURBIN, Mr. HARKIN, Mr. JOHNSON, Mr. MENENDEZ, Ms. MIKULSKI, Mr. REED, Mr. SANDERS, Mr. SCHUMER, and Mr. WEBB) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, supra; which was ordered to lie on the table.

SA 4008. Mr. MCCONNELL (for himself, Mr. STEVENS, Mr. ROBERTS, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. CORNYN, Mr. HATCH, Mr. SUNUNU, Mr. ALEXANDER, Mr. BURR, Mr. ISAKSON, Mr. VITTER, Mr. THUNE, Mr. CHAMBLISS, Mr. KYL, Mr. GRAHAM, Mr. CRAIG, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the

bill H.R. 5140, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 3989.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 55, between lines 19 and 20, insert the following:

**SEC. 203. TEMPORARY INCREASE IN LOAN LIMIT FOR HOME EQUITY CONVERSION MORTGAGES.**

For home equity conversion mortgages originated during the period beginning on July 1, 2007, and ending at the end of December 31, 2008, notwithstanding section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)), the limitation on the maximum principal obligation of a home equity conversion mortgage that may be insured by the Secretary of Housing and Urban Development under such section 255 shall not exceed the dollar limitation established under section 201(a)(2) of this Act (relating to increased loan limits for the Federal Home Loan Mortgage Corporation).

**SEC. 204. TEMPORARY INCREASE IN LOAN LIMIT FOR MANUFACTURED HOUSING.**

During the period beginning on July 1, 2007, and ending at the end of December 31, 2008, with respect to any bank, trust company, personal finance company, mortgage company, building and loan association, installment lending company, or other such financial institution, that received or seeks insurance protection under section 2 of the National Housing Act (12 U.S.C. 1703(b)), the dollar limitation against losses which may sustain as a result of a loan, advance of credit, or purchase of an obligation representing such loans and advances shall not exceed—

(1) $25,090 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing manufactured homes;

(2) $69,678 if made for the purpose of financing the purchase of a manufactured home;

(3) $92,904 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home; and

(4) $23,226 if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan.

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**SA 3990.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 14, after line 22, insert the following:

**SEC. 104. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS; TEMPORARY SUSPENSION OF 90 PERCENT AMT LIMIT.**

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

''(H) 5-YEAR CARRYBACK OF CERTAIN LOSSES.—

''(i) TAXABLE YEARS ENDING DURING 2001 AND 2002.—In the case of a net operating loss for any taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting '5' for '2' and subparagraph (F) shall not apply.

''(ii) TAXABLE YEARS BEGINNING OR ENDING DURING 2006, 2007, AND 2008.—In the case of a net operating loss for any taxable year beginning or ending during 2006, 2007, or 2008—

''(I) subparagraph (A)(i) shall be applied by substituting '5' for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting '4' for '2', and

''(III) subparagraph (F) shall not apply.''.

(b) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS AND CARRYOVERS.—

(1) IN GENERAL.—Section 56(d) of the of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) ADDITIONAL ADJUSTMENTS.—For purposes of paragraph (1)(A), the amount described in clause (I) of paragraph (1)(A)(ii) shall be increased by the amount of the net operating loss deduction allowable for the taxable year under section 172 attributable to the sum of—

''(A) carrybacks of net operating losses from taxable years beginning or ending during 2006, 2007, and 2008, and

''(B) carryovers of net operating losses to taxable years beginning or ending during 2006, 2007, or 2008.''.

(2) CONFORMING AMENDMENT.—Subclause (I) of section 56(d)(1)(A)(i) of such Code is amended by inserting ''amount of such'' before ''deduction described in clause (ii)(I)''.

(c) ANTI-ABUSE RULES.—The Secretary of Treasury or the Secretary's designee shall prescribes such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (a) shall apply to net operating losses arising in taxable years beginning or ending in 2006, 2007, or 2008.

(B) ELECTION.—In the case of a net operating loss for a taxable year beginning or ending during 2006 or 2007—

(i) any election made under section 172(b)(3) of the Internal Revenue Code of 1986 may (notwithstanding such section) be revoked before November 1, 2008, and

(ii) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 1, 2008.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years ending after December 31, 1995.

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**SA 3991.** Mr. SANDERS (for himself, Mr. AKAKA, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**TITLE VI—OTHER ASSISTANCE**

**SEC. 601. TEMPORARY INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.**

(a) IN GENERAL.—Section 2102 of title 38, United States Code, is amended—

(1) in subsection (b)(2), by striking ''$10,000'' and inserting ''$12,000''; and

(2) in subsection (d)—

(A) in paragraph (1), by striking ''$50,000'' and inserting ''$60,000''; and

(B) in paragraph (2), by striking ''$10,000'' and inserting ''$12,000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective during the period beginning on the date of the enactment of this Act and ending on September 30, 2008.

(c) REVIVAL.—Effective on October 1, 2008, the provisions of subsection (b)(2) and paragraphs (1) and (2) of subsection (d) of such section 2102, as such provisions were in effect on the day before the date of the enactment of this Act, are hereby revived.

**SEC. 602. TEMPORARY INCREASE IN ASSISTANCE FOR PROVIDING AUTOMOBILES OR OTHER CONVEYANCES TO CERTAIN DISABLED VETERANS.**

(a) IN GENERAL.—Section 3902(a) of title 38, United States Code, is amended by striking ''$11,000'' and inserting ''$22,484''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective during the period beginning on the date of the enactment of this Act and ending on September 30, 2008.

(c) REVIVAL.—Effective on October 1, 2008, the provisions of such section 3902(a), as such provisions were in effect on the day before the date of the enactment of this Act, are hereby revived.

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**SA 3992.** Mr. BROWN (for himself, Mrs. BOXER, Mr. BINGAMAN, Mr. SANDERS, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. EMERGENCY FUNDING.**

(a) IN GENERAL.—There is hereby appropriated to the Secretary of Agriculture to carry out the purposes of section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2036(a)) $100,000,000, to remain available until expended.

(b) USE OF FUNDS.—

(1) IN GENERAL.—In carrying out subsection (a), the Secretary may—

(A) waive such procurement rules as may be necessary to expedite the purchase and distribution of commodities to emergency feeding organizations; and

(B) divert to the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.) commodities held in inventory for other programs that can be replaced at a later date without program disruption.

(2) DISTRIBUTION COSTS.—A State may choose to use up to 10 percent of the total funds made available to the State under this section for distribution costs.

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**SA 3993.** Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery

rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 33, strike line 1 through page 44, line 24.

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**SA 3994.** Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 34, strike line 20 through page 37, line 6, and insert the following:

**SEC. 125. EXTENSION OF NEW ENERGY EFFICIENT HOME CREDIT.**

Subsection (g) of section 45L of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

**SEC. 126. EXTENSION OF ENERGY CREDIT.**

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal Revenue Code of 1986 (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(b) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) of the Internal Revenue Code of 1986 (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(c) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) of the Internal Revenue Code of 1986 (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

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**SA 3995.** Mr. NELSON of Florida (for himself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. _____. REFUND CHECK INTEGRITY PROTECTION.**

(a) DEFINITIONS.—In this section:

(1) DOMAIN NAME.—The term ''domain name'' means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(2) ELECTRONIC MAIL ADDRESS.—The term ''electronic mail address'' means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the ''local part'') and a reference to an Internet domain (commonly referred to as the ''domain part''), whether or not displayed, to which an electronic mail message can be sent or delivered.

(3) ELECTRONIC MAIL MESSAGE.—The term ''electronic mail message'' means a message sent to a unique electronic mail address.

(4) IDENTIFYING INFORMATION.—The term ''identifying information'', with respect to an individual, means any of the following:

(A) The last name of the individual combined with the first initial or first name of the individual.

(B) The home address of the individual.

(C) The telephone number of the individual.

(D) The social security number of the individual.

(E) The taxpayer identification number of the individual.

(F) The employer identification number that is the same as or is derived from the social security number of the individual.

(G) A financial account number, credit card number, or debit card number of the individual that is combined with any required security code, access code, or password that would permit access to a financial account of such individual.

(H) The driver's license identification number or State resident identification number of the individual.

(I) Such other information that is sufficient to identify the individual by name.

(5) INTERNET.—The term ''Internet'' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

(6) WEB PAGE.—The term ''web page'' means a location, with respect to the World Wide Web, that has a single Uniform Resource Locator or another single location with respect to the Internet, as the Federal Trade Commission may prescribe.

(b) USE OF DECEPTIVE OR MISLEADING WEB PAGES, DOMAIN NAMES, AND ELECTRONIC MAIL MESSAGES REFERRING TO THE INTERNAL REVENUE SERVICE.—It shall be unlawful for any person, by means of a web page, domain name, electronic mail message, or otherwise through the use of the Internet, to solicit, request, or take any action, to induce an individual to provide identifying information by representing itself to be the Internal Revenue Service, or another governmental office administering any refund of Federal taxes, without the authority or approval of the Commissioner of Internal Revenue, if—

(1) the representing person does not have the express authority or approval of the Commissioner of Internal Revenue or other governmental office to represent itself as the Internal Revenue Service, or another governmental office administering any refund of Federal taxes; and

(2) the representing person has actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that such web page, domain name, electronic mail message, or other means would be likely to mislead an individual, acting reasonably under the circumstances, about a material fact regarding the contents of such electronic mail message, instant message, web page, or advertisement (consistent with the criteria used in the enforcement of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(c) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of a prohibition described in subsection (b) shall be treated as a violation of a rule defining an unfair or deceptive act or practice described under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall enforce the provisions of paragraph (1) and subsection (b) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

(3) AVAILABILITY OF CEASE-AND-DESIST ORDERS AND INJUNCTIVE RELIEF WITHOUT SHOWING OF KNOWLEDGE.—In any proceeding or action pursuant to paragraph (2) to enforce compliance through an order to cease and desist or an injunction, the Federal Trade Commission shall not be required to allege or prove the state of mind required by subsection (b).

(d) REFUND CHECK PROTECTION WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this section, the Commissioner of Internal Revenue shall establish a working group to be known as the ''Refund Check Protection Working Group'' (hereafter in this subsection referred to as the ''Working Group'').

(2) MEMBERSHIP.—

(A) APPOINTMENT AND CONSULTATION.—Subject to subparagraph (B), members of the Working group shall be appointed by the Commissioner of Internal Revenue in consultation with the head of each of the agencies described in such subparagraph.

(B) COMPOSITION.—The Working Group shall be composed of 5 members of whom—

(i) 1 shall be a representative of the Internal Revenue Service;

(ii) 1 shall be a representative of the Federal Trade Commission;

(iii) 1 shall be a representative of the Department of Justice;

(iv) 1 shall be a representative of the Federal Bureau of Investigation; and

(v) 1 shall be a representative of the Secret Service.

(C) CHAIR.—The Working Group shall select a chair from among its members.

(3) DUTIES.—

(A) BEST PRACTICES.—The Working Group shall collect, review, disseminate, and advise on best practices and any additional governmental efforts required to protect the integrity of the distribution of refunds for Federal taxes.

(B) MONTHLY REPORT.—Not later than 3 months after the date on which the Working Group is established, and every month thereafter, the Working Group shall submit to Congress a report on its findings with respect to its activities under subparagraph (A).

(4) TERMINATION.—This Working Group shall terminate 180 days after the date of the enactment of this section.

(e) EFFECT ON FEDERAL TRADE COMMISSION ACT.—Nothing in this section may be construed to reduce the authority of the Federal Trade Commission to bring enforcement actions under the Federal Trade Commission Act for materially false or deceptive representations or unfair practices on the Internet.

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**SA 3996.** Mr. NELSON of Florida (for himself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 49, after line 19, add the following:

**Subtitle E—Other Provisions**

**SEC. 132. REFUND CHECK INTEGRITY PROTECTION.**

(a) DEFINITIONS.—In this section:

(1) DOMAIN NAME.—The term ''domain name'' means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority

as part of an electronic address on the Internet.

(2) ELECTRONIC MAIL ADDRESS.—The term ''electronic mail address'' means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the ''local part'') and a reference to an Internet domain (commonly referred to as the ''domain part''), whether or not displayed, to which an electronic mail message can be sent or delivered.

(3) ELECTRONIC MAIL MESSAGE.—The term ''electronic mail message'' means a message sent to a unique electronic mail address.

(4) IDENTIFYING INFORMATION.—The term ''identifying information'', with respect to an individual, means any of the following:

(A) The last name of the individual combined with the first initial or first name of the individual.

(B) The home address of the individual.

(C) The telephone number of the individual.

(D) The social security number of the individual.

(E) The taxpayer identification number of the individual.

(F) The employer identification number that is the same as or is derived from the social security number of the individual.

(G) A financial account number, credit card number, or debit card number of the individual that is combined with any required security code, access code, or password that would permit access to a financial account of such individual.

(H) The driver's license identification number or State resident identification number of the individual.

(I) Such other information that is sufficient to identify the individual by name.

(5) INTERNET.—The term ''Internet'' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

(6) WEB PAGE.—The term ''web page'' means a location, with respect to the World Wide Web, that has a single Uniform Resource Locator or another single location with respect to the Internet, as the Federal Trade Commission may prescribe.

(b) USE OF DECEPTIVE OR MISLEADING WEB PAGES, DOMAIN NAMES, AND ELECTRONIC MAIL MESSAGES REFERRING TO THE INTERNAL REVENUE SERVICE.—It shall be unlawful for any person, by means of a web page, domain name, electronic mail message, or otherwise through the use of the Internet, to solicit, request, or take any action, to induce an individual to provide identifying information by representing itself to be the Internal Revenue Service, or another governmental office administering any refund of Federal taxes, without the authority or approval of the Commissioner of Internal Revenue, if—

(1) the representing person does not have the express authority or approval of the Commissioner of Internal Revenue or other governmental office to represent itself as the Internal Revenue Service, or another governmental office administering any refund of Federal taxes; and

(2) the representing person has actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that such web page, domain name, electronic mail message, or other means would be likely to mislead an individual, acting reasonably under the circumstances, about a material fact regarding the contents of such electronic mail message, instant message, web page, or advertisement (consistent with the criteria used in the enforcement of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(c) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of a prohibition described in subsection (b) shall be treated as a violation of a rule defining an unfair or deceptive act or practice described under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall enforce the provisions of paragraph (1) and subsection (b) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

(3) AVAILABILITY OF CEASE-AND-DESIST ORDERS AND INJUNCTIVE RELIEF WITHOUT SHOWING OF KNOWLEDGE.—In any proceeding or action pursuant to paragraph (2) to enforce compliance through an order to cease and desist or an injunction, the Federal Trade Commission shall not be required to allege or prove the state of mind required by subsection (b).

(d) REFUND CHECK PROTECTION WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this section, the Commissioner of Internal Revenue shall establish a working group to be known as the ''Refund Check Protection Working Group'' (hereafter in this subsection referred to as the ''Working Group'').

(2) MEMBERSHIP.—

(A) APPOINTMENT AND CONSULTATION.—Subject to subparagraph (B), members of the Working group shall be appointed by the Commissioner of Internal Revenue in consultation with the head of each of the agencies described in such subparagraph.

(B) COMPOSITION.—The Working Group shall be composed of 5 members of whom—

(i) 1 shall be a representative of the Internal Revenue Service;

(ii) 1 shall be a representative of the Federal Trade Commission;

(iii) 1 shall be a representative of the Department of Justice;

(iv) 1 shall be a representative of the Federal Bureau of Investigation; and

(v) 1 shall be a representative of the Secret Service.

(C) CHAIR.—The Working Group shall select a chair from among its members.

(3) DUTIES.—

(A) BEST PRACTICES.—The Working Group shall collect, review, disseminate, and advise on best practices and any additional governmental efforts required to protect the integrity of the distribution of refunds for Federal taxes.

(B) MONTHLY REPORT.—Not later than 3 months after the date on which the Working Group is established, and every month thereafter, the Working Group shall submit to Congress a report on its findings with respect to its activities under subparagraph (A).

(4) TERMINATION.—This Working Group shall terminate 180 days after the date of the enactment of this section.

(e) EFFECT ON FEDERAL TRADE COMMISSION ACT.—Nothing in this section may be construed to reduce the authority of the Federal Trade Commission to bring enforcement actions under the Federal Trade Commission Act for materially false or deceptive representations or unfair practices on the Internet.

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**SA 3997.** Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3983 submitted by Mr. BROWNBACK (for himself, Mr. DORGAN, Ms. CANTWELL, and Mr. INOUYE) to the amendment SA 3899 proposed by Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. BAUCUS, Mr. KENNEDY, Mr. SMITH, Mr. NELSON of Nebraska, and Mr. SALAZAR) to the bill S. 1200, to amend the Indian Health Care Improvement Act to revise and extend the Act; which was ordered to lie on the table; as follows:

On page 4, line 13, strike ''$150,000 ($300,000'' and insert ''$75,000 ($150,000''.

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**SA 3998.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during calendar year 2008, the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program or any other acquisition method.

(b) RESUMPTION.—The Secretary may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program or any other acquisition method under subsection (a) not earlier than 30 days after the date on which the Secretary notifies Congress that the Secretary has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $50 or less per barrel.

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**SA 3999.** Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 13, before line 4, insert the following:

**SEC. 102. USE OF AMENDED INCOME TAX RETURNS TO TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-RELATED CASUALTY LOSS GRANTS BY DISALLOWING PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.**

Notwithstanding any other provision of the Internal Revenue Code of 1986, if a taxpayer claims a deduction for any taxable year with respect to a casualty loss to a personal residence (within the meaning of section 121 of such Code) resulting from Hurricane Katrina or Hurricane Rita and in a subsequent taxable year receives a grant under Public Law 109–148, 109–234, or 110–116 as reimbursement for such loss from the State of Louisiana or the State of Mississippi, such taxpayer may elect to file an amended income tax return for the taxable year in which such deduction was allowed and disallow such deduction. If elected, such amended return must be filed not later than the due date for filing the tax return for the taxable year in which the taxpayer receives such reimbursement. Any increase in Federal income tax resulting from such disallowance shall not be subject to any penalty

or interest under such Code if such amended return is so filed.

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**SA 4000.** Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 4, line 14, insert ''For purposes of the preceding sentence, adjusted gross income shall not include any income resulting from the recapture of any casualty loss deduction due to the receipt of any grants under Public Law 109–148, 109–234, or 110–116.''.

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**SA 4001.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the end add the following:

**TITLE VI—TEMPORARY INFRASTRUCTURE GRANTS TO STATES**

**SEC. 601. TEMPORARY INFRASTRUCTURE GRANTS TO STATES.**

Section 601 of the Social Security Act (42 U.S.C. 801) is amended to read as follows:

**''SEC. 601. TEMPORARY INFRASTRUCTURE GRANTS TO STATES.**

''(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated for making payments to States under this section, $5,000,000,000 for fiscal year 2008.

''(b) PAYMENTS.—From the amount appropriated under subsection (a), the Secretary of the Treasury shall, not later than the later of the date that is 45 days after the date of enactment of this section or the date that a State provides the certification required by subsection (e), pay each State the amount determined for the State under subsection (c).

''(c) PAYMENTS BASED ON POPULATION.—

''(1) IN GENERAL.—Subject to paragraph (2), the amount appropriated under subsection (a) shall be used to pay each State an amount equal to the relative population proportion amount described in paragraph (3).

''(2) MINIMUM PAYMENT.—

''(A) IN GENERAL.—No State shall receive a payment under this section that is less than—

''(i) in the case of 1 of the 50 States or the District of Columbia, ½ of 1 percent of the amount appropriated under subsection (a); and

''(ii) in the case of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, 1/10 of 1 percent of the amount appropriated under subsection (a).

''(B) PRO RATA ADJUSTMENTS.—The Secretary of the Treasury shall adjust on a pro rata basis the amount of the payments to States determined under this section without regard to this subparagraph to the extent necessary to comply with the requirements of subparagraph (A).

''(3) RELATIVE POPULATION PROPORTION AMOUNT.—The relative population proportion amount described in this paragraph is the product of—

''(A) the amount described in subsection (a); and

''(B) the relative State population proportion (as defined in paragraph (4)).

''(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—For purposes of paragraph (3)(B), the term 'relative State population proportion' means, with respect to a State, the amount equal to the quotient of—

''(A) the population of the State (as reported in the most recent decennial census); and

''(B) the total population of all States (as reported in the most recent decennial census).

''(d) USE OF PAYMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), a State shall use the funds provided under a payment made under this section for infrastructure needs, including—

''(A) construction, maintenance, or repair of highways and bridges;

''(B) mass transit projects;

''(C) public works projects, such as water, wastewater treatment, sewer, or drinking water projects; or

''(D) other capital construction needs.

''(2) LIMITATION.—A State may only use funds provided under a payment made under this section if such funds are obligated for expenditure before October 1, 2008.

''(e) CERTIFICATION.—In order to receive a payment under this section, the State shall provide the Secretary of the Treasury with a certification that the State's proposed uses of the funds are consistent with subsection (d).

''(f) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

''(g) REPEAL.—This title is repealed on October 1, 2008.''.

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**SA 4002.** Mr. SANDERS (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the appropriate place in the appropriations section, insert the following:

(____) For an additional amount for community health centers under section 330 of the Public Health Service Act (42 U.S.C. 254b), $148,000,000.

(____) For an additional amount for the weatherization assistance program of the Department of Energy, $500,000,000.

(____) For an additional amount to carry out title X of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1748) and amendments made by that title, $125,000,000.

At the appropriate place, insert the following:

**SEC. _____. TEMPORARY INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.**

(a) IN GENERAL.—Section 2102 of title 38, United States Code, is amended—

(1) in subsection (b)(2), by striking ''$10,000'' and inserting ''$12,000''; and

(2) in subsection (d)—

(A) in paragraph (1), by striking ''$50,000'' and inserting ''$60,000''; and

(B) in paragraph (2), by striking ''$10,000'' and inserting ''$12,000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective during the period beginning on the date of the enactment of this Act and ending on September 30, 2008.

(c) REVIVAL.—Effective on October 1, 2008, the provisions of subsection (b)(2) and paragraphs (1) and (2) of subsection (d) of such section 2102, as such provisions were in effect on the day before the date of the enactment of this Act, are hereby revived.

**SEC. _____. TEMPORARY INCREASE IN ASSISTANCE FOR PROVIDING AUTOMOBILES OR OTHER CONVEYANCES TO CERTAIN DISABLED VETERANS.**

(a) IN GENERAL.—Section 3902(a) of title 38, United States Code, is amended by striking ''$11,000'' and inserting ''$22,484''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective during the period beginning on the date of the enactment of this Act and ending on September 30, 2008.

(c) REVIVAL.—Effective on October 1, 2008, the provisions of such section 3902(a), as such provisions were in effect on the day before the date of the enactment of this Act, are hereby revived.

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**SA 4003.** Mr. SANDERS (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 69, strike lines 1 through 4 and insert the following:

**TITLE V—ADDITIONAL APPROPRIATIONS**

**SEC. 501. WEATHERIZATION ASSISTANCE.**

In addition to amounts available as of the date of enactment of this Act for the weatherization assistance program of the Department of Energy, there is hereby appropriated for that program $500,000,000.

**TITLE VI—EMERGENCY DESIGNATION OF APPROPRIATED AMOUNTS**

**SEC. 601. EMERGENCY DESIGNATION.**

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**SA 4004.** Mr. SANDERS (for himself, Mrs. CLINTON, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

On page 69, strike lines 1 through 4 and insert the following:

**TITLE V—ADDITIONAL APPROPRIATIONS**

**SEC. 501. GREEN JOBS.**

In addition to amounts available as of the date of enactment of this Act to carry out title X of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1748) and amendments made by that title, there is hereby appropriated for that title and those amendments $125,000,000.

**TITLE VI—EMERGENCY DESIGNATION OF APPROPRIATED AMOUNTS**

**SEC. 601. EMERGENCY DESIGNATION.**

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**SA 4005.** Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr.

REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the appropriate place in the appropriations section, insert the following:

(____) For an additional amount for community health centers under section 330 of the Public Health Service Act (42 U.S.C. 254b), $148,000,000.

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**SA 4006.** Mr. CHAMBLISS (for himself, Mr. CRAPO, Mr. DEMINT, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

Strike title V.

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**SA 4007.** Mr. WYDEN (for himself, Mr. THUNE, Mr. DODD, Mr. SHELBY, Mrs. CLINTON, Mr. DURBIN, Mr. HARKIN, Mr. JOHNSON, Mr. MENENDEZ, Ms. MIKULSKI, Mr. REED, Mr. SANDERS, Mr. SCHUMER, and Mr. WEBB) submitted an amendment intended to be proposed to amendment SA 3983 proposed by Mr. REID to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VI—INCREASED FUNDING FOR HIGHWAY TRUST FUND**

**SEC. 601. REPLENISH EMERGENCY SPENDING FROM HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Section 9503(b) of the Internal Revenue Code of 1986 is amended—

(1) by adding at the end the following new paragraph:

''(7) EMERGENCY SPENDING REPLENISHMENT.—There is hereby appropriated to the Highway Trust Fund $5,000,000,000, of which—

''(A) $4,000,000,000 shall be deposited in the Highway Account; and

''(B) $1,000,000,000 shall be deposited in the Mass Transit Account.'', and

(2) by striking ''AMOUNTS EQUIVALENT TO CERTAIN TAXES AND PENALTIES'' in the heading and inserting ''CERTAIN AMOUNTS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 602. OBLIGATION AUTHORITY FOR STIMULUS PROJECTS.**

(a) IN GENERAL.—Section 1102 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (23 U.S.C. 104 note; Public Law 109–59) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''(g) and (h)'' and inserting ''(g), (h), and (*l*)''; and

(B) paragraph (4), by striking ''$39,585,075,404'' and inserting ''$43,585,075,404''; and

(2) by adding at the end the following:

''(*l*) OBLIGATION AUTHORITY FOR STIMULUS PROJECTS.—

''(1) IN GENERAL.—Of the obligation authority distributed under subsection (a)(4), not less than $4,000,000,000 shall be provided to States for use in carrying out highway projects that the States determine will provide rapid economic stimulus.

''(2) REQUIREMENT.—A State that seeks a distribution of the obligation authority described in paragraph (1) shall agree to obligate funds so received not later than 120 days after the date on which the State receives the funds.

''(3) FLEXIBILITY.—A State that receives a distribution of the obligation authority described in paragraph (1) may use the funds for any highway project described in paragraph (1), regardless of any funding limitation or formula that is otherwise applicable to projects carried out using obligation authority under this section.

''(4) FEDERAL SHARE.—The Federal share of any highway project carried out using funds described in paragraph (1) shall be 100 percent.''.

(b) CONFORMING AMENDMENTS.—

(1) The matter under the heading ''(INCLUDING TRANSFER OF FUNDS)'' under the heading ''(HIGHWAY TRUST FUND)'' under the heading ''(LIMITATION ON OBLIGATIONS)'' under the heading ''FEDERAL-AID HIGHWAYS'' under the heading ''FEDERAL HIGHWAY ADMINISTRATION'' of title I of division K of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844) is amended by striking ''$40,216,051,359'' and inserting ''$44,216,051,359''.

(2) The matter under the heading ''(INCLUDING RESCISSION)'' under the heading ''(HIGHWAY TRUST FUND)'' under the heading ''(LIMITATION ON OBLIGATIONS)'' under the heading ''(LIQUIDATION OF CONTRACT AUTHORITY)'' under the heading ''FORMULA AND BUS GRANTS'' under the heading ''FEDERAL TRANSIT ADMINISTRATION'' of title I of division K of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844) is amended by striking ''$6,855,000,000'' and inserting '', and section 3052 of Public Law 109–59, $7,855,000,000''.

(3) Sections 9503(c)(1) and 9503(e)(3) of the Internal Revenue Code of 1986 are each amended by inserting '', as amended by the Economic Stimulus Act of 2008,''.

**SEC. 603. STIMULUS OF MANUFACTURING AND CONSTRUCTION THROUGH PUBLIC TRANSPORTATION INVESTMENT.**

(a) IN GENERAL.—Title III of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1544) is amended by adding at the end the following:

**''SEC. 3052. STIMULUS OF MANUFACTURING AND CONSTRUCTION THROUGH PUBLIC TRANSPORTATION INVESTMENT.**

''(a) AUTHORIZATION.—The Secretary is authorized to make stimulus grants under this section to public transportation agencies.

''(b) ELIGIBLE RECIPIENTS.—Stimulus grants authorized under subsection (a) may be awarded—

''(1) to public transportation agencies which have a full funding grant agreement in force on the date of enactment of this section with Federal payments scheduled in any year beginning with fiscal year 2008, for activities authorized under the full funding grant agreement that would expedite construction of the project; and

''(2) to designated recipients as defined in section 5307 of title 49, United States Code, for immediate use to address a backlog of existing maintenance needs or to purchase rolling stock or buses, if the contracts for such purchases are in place prior to the grant award.

''(c) USE OF FUNDS.—Of the amounts made available to carry out this section, the Secretary shall use to make grants under this section—

''(1) $300,000,000 for stimulus grants to recipients described in subsection (b)(1); and

''(2) $700,000,000 for stimulus grants to recipients described in subsection (b)(2).

''(d) DISTRIBUTION OF FUNDS.—

''(1) EXPEDITED NEW STARTS GRANTS.—Funds described in subsection (c)(1) shall be distributed among eligible recipients so that each recipient receives an equal percentage increase based on the Federal funding commitment for fiscal year 2008 specified in Attachment 6 of the recipient's full funding grant agreement.

''(2) FORMULA GRANTS.—Of the funds described in subsection (c)(2)—

''(A) 60 percent shall be distributed according to the formula in subsections (a) through (c) of section 5336 of title 49, United States Code; and

''(B) 40 percent shall be distributed according to the formula in section 5340 of title 49, United States Code.

''(3) ALLOCATION.—The Secretary shall determine the allocation of the amounts described in subsection (c)(1) and shall apportion amounts described in subsection (c)(2) not later than 20 days after the date of enactment of this section.

''(4) NOTIFICATION TO CONGRESS.—The Secretary shall notify the committees referred to in section 5334(k) of title 49, United States Code, of the allocations determined under paragraph (3) not later than 3 days after such determination is made.

''(5) OBLIGATION REQUIREMENT.—The Secretary shall obligate the funds described in subsection (c)(1) as expeditiously as practicable, but in no case later than 120 days after the date of enactment of this section.

''(e) PRE-AWARD SPENDING AUTHORITY.—

''(1) IN GENERAL.—A recipient of a grant under this section shall have pre-award spending authority.

''(2) REQUIREMENTS.—Any expenditure made pursuant to pre-award spending authorized by this subsection shall conform with applicable Federal requirements in order to remain eligible for future Federal reimbursement.

''(f) FEDERAL SHARE.—The Federal share of a stimulus grant authorized under this section shall be 100 percent.

''(g) SELF-CERTIFICATION.—

''(1) IN GENERAL.—Prior to the obligation of stimulus grant funds under this section, the recipient of the grant award shall certify—

''(A) for recipients described in subsection (b)(1), that the recipient will comply with the terms and conditions that apply to grants under section 5309 of title 49, United States Code;

''(B) for recipients under subsection (b)(2), that the recipient will comply with the terms and conditions that apply to grants under section 5307 of title 49, United States Code; and

''(C) that the funds will be used in a manner that will stimulate the economy.

''(2) CERTIFICATION.—Required certifications may be made as part of the certification required under section 5307(d)(1) of title 49, United States Code.

''(3) AUDIT.—If, upon the audit of any recipient under this section, the Secretary finds that the recipient has not complied with the requirements of this section and has not made a good-faith effort to comply, the Secretary may withhold not more than 25 percent of the amount required to be appropriated for that recipient under section 5307 of title 49, United States Code, for the following fiscal year if the Secretary notifies the committees referred to in subsection (d)(4) at least 21 days prior to such withholding.''.

(b) STIMULUS GRANT FUNDING.—Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(h) STIMULUS GRANT FUNDING.—For fiscal year 2008, $1,000,000,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3052 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.''.

(c) EXPANDED BUS SERVICE IN SMALL COMMUNITIES.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading, by striking ''2007'' and inserting ''2009'';

(2) in subparagraph (A), by striking ''2007'' and inserting ''2009''; and

(3) by adding at the end the following:

''(E) MAXIMUM AMOUNTS IN FISCAL YEARS 2008 AND 2009.—In fiscal years 2008 and 2009—

''(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

''(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

''(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 50 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.''.

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**SA 4008.** Mr. MCCONNELL (for himself, Mr. STEVENS, Mr. ROBERTS, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. CORNYN, Mr. HATCH, Mr. SUNUNU, Mr. ALEXANDER, Mr. BURR, Mr. ISAKSON, Mr. VITTER, Mr. THUNE, Mr. CHAMBLISS, Mr. KYL, Mr. GRAHAM, Mr. CRAIG, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 5140, to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits; which was ordered to lie on the table; as follows:

Beginning on page 2, strike line 4 and all that follows through page 10, line 20, and insert the following:

**SEC. 101. 2008 RECOVERY REBATES FOR INDIVIDUALS.**

(a) IN GENERAL.—Section 6428 of the Internal Revenue Code of 1986 is amended to read as follows:

**''SEC. 6428. 2008 RECOVERY REBATES FOR INDIVIDUALS.**

''(a) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by subtitle A for the first taxable year beginning in 2008 an amount equal to the lesser of—

''(1) net income tax liability, or

''(2) $600 ($1,200 in the case of a joint return).

''(b) SPECIAL RULES.—

''(1) IN GENERAL.—In the case of a taxpayer described in paragraph (2)—

''(A) the amount determined under subsection (a) shall not be less than $300 ($600 in the case of a joint return), and

''(B) the amount determined under subsection (a) (after the application of subparagraph (A)) shall be increased by the product of $300 multiplied by the number of qualifying children (within the meaning of section 24(c)) of the taxpayer.

''(2) TAXPAYER DESCRIBED.—A taxpayer is described in this paragraph if the taxpayer—

''(A) has qualifying income of at least $3,000, or

''(B) has—

''(i) net income tax liability which is greater than zero, and

''(ii) gross income which is greater than the sum of the basic standard deduction plus the exemption amount (twice the exemption amount in the case of a joint return).

''(c) TREATMENT OF CREDIT.—The credit allowed by subsection (a) shall be treated as allowed by subpart C of part IV of subchapter A of chapter 1.

''(d) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount of the credit allowed by subsection (a) (determined without regard to this subsection and subsection (f)) shall be reduced (but not below zero) by 5 percent of so much of the taxpayer's adjusted gross income as exceeds $75,000 ($150,000 in the case of a joint return).

''(e) DEFINITIONS.—For purposes of this section—

''(1) NET INCOME TAX LIABILITY.—The term 'net income tax liability' means the excess of—

''(A) the sum of the taxpayer's regular tax liability (within the meaning of section 26(b)) and the tax imposed by section 55 for the taxable year, over

''(B) the credits allowed by part IV (other than section 24 and subpart C thereof) of subchapter A of chapter 1.

''(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means any individual other than—

''(A) any nonresident alien individual,

''(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

''(C) an estate or trust.

''(3) QUALIFYING INCOME.—The term 'qualifying income' means—

''(A) earned income,

''(B) social security benefits (within the meaning of section 86(d)), and

''(C) any compensation or pension received under chapter 11, chapter 13, or chapter 15 of title 38, United States Code.

''(4) EARNED INCOME.—The term 'earned income' has the meaning set forth in section 32(c)(2) except that—

''(A) subclause (II) of subparagraph (B)(vi) thereof shall be applied by substituting 'January 1, 2009' for 'January 1, 2008', and

''(B) such term shall not include net earnings from self-employment which are not taken into account in computing taxable income.

''(5) BASIC STANDARD DEDUCTION; EXEMPTION AMOUNT.—The terms 'basic standard deduction' and 'exemption amount' shall have the same respective meanings as when used in section 6012(a).

''(f) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

''(1) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (g). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

''(2) JOINT RETURNS.—In the case of a refund or credit made or allowed under subsection (g) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.

''(g) ADVANCE REFUNDS AND CREDITS.—

''(1) IN GENERAL.—Each individual who was an eligible individual for such individual's first taxable year beginning in 2007 shall be treated as having made a payment against the tax imposed by chapter 1 for such first taxable year in an amount equal to the advance refund amount for such taxable year.

''(2) ADVANCE REFUND AMOUNT.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if this section (other than subsection (f) and this subsection) had applied to such taxable year.

''(3) TIMING OF PAYMENTS.—The Secretary shall, subject to the provisions of this title, refund or credit any overpayment attributable to this section as rapidly as possible. No refund or credit shall be made or allowed under this subsection after December 31, 2008.

''(4) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.

''(h) IDENTIFICATION NUMBER REQUIREMENT.—

''(1) IN GENERAL.—No credit shall be allowed under subsection (a) to an eligible individual who does not include on the return of tax for the taxable year—

''(A) such individual's valid identification number,

''(B) in the case of a joint return, the valid identification number of such individual's spouse, and

''(C) in the case of any qualifying child taken into account under subsection (b)(1)(B), the valid identification number of such qualifying child.

''(2) VALID IDENTIFICATION NUMBER.—For purposes of paragraph (1), the term 'valid identification number' means a social security number issued to an individual by the Social Security Administration. Such term shall not include a TIN issued by the Internal Revenue Service.

''(i) COORDINATION WITH DEFICIENCY PROCEDURES.—For purposes of sections 6211(b)(4)(A) and 6213(g)(2)(F), any reference to section 32 shall be treated as including a reference to this section.''.

(b) TREATMENT OF POSSESSIONS.—

(1) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall make a payment to each possession of the United States with a mirror code tax system in an amount equal to the loss to that possession by reason of the amendments made by this section. Such amount shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(2) OTHER POSSESSIONS.—The Secretary of the Treasury shall make a payment to each possession of the United States which does not have a mirror code tax system in an amount estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the amendments made by this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payment to the residents of such possession.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income

tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 6428 of the Internal Revenue Code of 1986 (as added by this section).

(c) APPROPRIATIONS TO CARRY OUT RECOVERY REBATES.—

(1) IN GENERAL.—The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, to implement the provisions of this section (including the amendments made by this section):

(A) For an additional amount for ''Department of the Treasury—Financial Management Service—Salaries and Expenses'', $64,175,000, to remain available until September 30, 2009.

(B) For an additional amount for ''Department of the Treasury—Internal Revenue Service—Taxpayer Services'', $50,720,000, to remain available until September 30, 2009.

(C) For an additional amount for ''Department of the Treasury—Internal Revenue Service—Operations Support'', $151,415,000, to remain available until September 30, 2009.

(2) REPORTS.—No later than 15 days after enactment of this Act, the Secretary of the Treasury shall submit a plan to the Committees on Appropriations of the House of Representatives and the Senate detailing the expected use of the funds provided by this subsection. Beginning 90 days after enactment of this Act, the Secretary of the Treasury shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the actual expenditure of funds provided by this subsection and the expected expenditure of such funds in the subsequent quarter.

(d) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of section 6428 of the Internal Revenue Code of 1986 (as amended by this section) or by reason of subsection (b) of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following two months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting ''or 6428'' after ''section 35''.

(2) Paragraph (1) of section 1(i) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(3) The item relating to section 6428 in the table of sections for subchapter B of chapter 65 of such Code is amended to read as follows:

''Sec. 6428. 2008 recovery rebates for individuals.''.

**SEC. 102. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.**

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee on armed services be authorized to meet during the session of the Senate on Wednesday, February 6, 2008, at 9:30 a.m. in open session to receive testimony on the defense authorization request for fiscal year 2009, the Future Years Defense Program, and the fiscal year 2009 request for operations in Iraq and Afghanistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, February 6, 2008, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in order to conduct a hearing. At this hearing, the Committee will hear testimony regarding Department of Energy's budget for fiscal year 2009.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, February 6, 2008 at 10 a.m. in room 406 of the Dirksen Senate Office Building in order to hold a hearing entitled, ''Perectives on the Surface Transportation Commission Report.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, February 6, 2008 in room 410 of the Dirksen Senate Office Building at 10:05 a.m. in order to hold a business meeting to consider the following item: S. 2146, a bill to authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, February 6, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building, in order to hear testimony on ''The President's Fiscal Year 2009 Budget Proposal.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 6, 2008, at 9:30 a.m. in order to hold a hearing on denuclearization of the Korean peninsula.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 6, 2008, at 1 p.m. in order to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 6, 2008, at 3 p.m. in order hold a briefing on Sudan.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows, interns, and detailees of the staff of the Finance Committee be granted the privilege of the floor for the duration of the debate on the economic stimulus bill: Mary Baker, Tom Louthan, Elise Stein, Susan Hinck, Suzanne Payne, Hy Hinojosa, Connie Cookson, Mollie Lane, Ben Miller, Emily Schwartz, Tyler Gamble, Blake Thompson, Michael Bagel, and Kayleigh Brown.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that Jeffry Phan, a fellow in Senator BINGAMAN's office, be given the privileges of the floor for the pendency of H.R. 5140 and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DO-NOT-CALL IMPROVEMENT ACT OF 2007

Mr. DURBIN. I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3541, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3541) to amend the ''Do-not-call'' Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal ''do-not-call'' registry.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table with no intervening

action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3541) was ordered to be read a third time, was read the third time, and passed.

## MEASURE READ THE FIRST TIME—S. 2596

Mr. DURBIN. I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2596) to rescind funds appropriated by the Consolidated Appropriations Act of 2008 for the City of Berkeley, California, and any entities located in such city, and to provide that such funds shall be transferred to the Operation and Maintenance, Marine Corps account of the Department of Defense for the purposes of recruiting.

Mr. DURBIN. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 110–14

Mr. DURBIN. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following treaty transmitted to the Senate on February 6, 2008 by the President of the United States: International Convention Against Doping in Sport (Treaty Document No. 110–14).

I further ask unanimous consent that the treaty be considered as having been read the first time, that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the International Convention Against Doping in Sport, adopted by the United Nations Educational, Scientific, and Cultural Organization on October 19, 2005.

The United States supported the development of the Convention as a means to ensure equitable and effective application and promotion of anti-doping controls in international competition. The Convention will help to advance international cooperation on and promotion of international doping control efforts, and will help to protect the integrity and spirit of sport by supporting efforts to ensure a fair and doping-free environment for athletes.

The International Olympic Movement has been supportive of the promotion and adoption of this Convention by the international community. Ratification by the United States will demonstrate the United States' longstanding commitment to the development of international anti-doping controls and its commitment to apply and facilitate the application of appropriate anti-doping controls during international competitions held in the United States. Ratification will also ensure that the United States will continue to remain eligible to host international competitions. The Convention does not cover U.S. sports leagues.

I recommend that the Senate give prompt and favorable consideration to the Convention and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 6, 2008*.

## ORDERS FOR THURSDAY, FEBRUARY 7, 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., tomorrow, February 7; that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that the majority leader then be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 10:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:32 p.m., recessed until Thursday, February 7, 2008, at 10:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUSAN D. PEPPLER, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE PAMELA HUGHES PATENAUDE.

DEPARTMENT OF STATE

LINDA THOMAS-GREENFIELD, OF LOUISIANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LIBERIA.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER:

ALLAN P. MUSTARD, OF WASHINGTON

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

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LLOYD S. HARBERT, OF VIRGINIA
ROSS GLANTON KREAMER, OF KENTUCKY
KENT D. SISSON, OF IDAHO
ROBIN TILSWORTH, OF CALIFORNIA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

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DALE L. MAKI, OF TEXAS
DAVID C. MILLER, OF WASHINGTON
OSVALDO E. PEREZ-RAMOS, OF THE DISTRICT OF COLUMBIA
SUSAN R. SCHAYES, OF VIRGINIA
DAVID GOODSON SALMON, OF MISSOURI
KEVIN N. SMITH, OF ILLINOIS

DEPARTMENT OF JUSTICE

RALPH E. MARTINEZ, OF FLORIDA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2010, VICE LARAMIE FAITH MCNAMARA.